

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 27.02.2017
CORAM
THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN
Crl.O.P.No.3729 of 2017
and
Crl.M.P.No.2755 of 2017

N.Nahir Hussain ... Petitioner/Accused No.4

Vs

State rep. by
The Inspector of Police,
R-2, Kodambakkam Police Station,
Chennai - 600 024. ...
Respondent/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in Crl.M.P.No.57 of 2017 in S.C.No.49 of 2014 now pending on the file of the learned XV Additional Sessions Judge at Chennai and set aside the order passed in Crl.M.P.No.57 of 2017 vide common order dated 14.02.2017.

For Petitioner : Mr.A.D.Jagadish Chandira
For Respondent : Mr.C.Emalias
Addl. Public Prosecutor

O R D E R

This petition has been filed challenging the order of dismissal passed in Crl.M.P.No.57 of 2017 dated 14.02.2017 by the learned XV Additional Sessions Judge, Chennai to recall P.Ws.6, 24, 25, 26 and 27 for cross examination.

2. The petitioner is A-4 in Sessions Case No.49 of 2014 on the file of the learned XV Additional Sessions Judge, Chennai. He stood charged for the offences under Sections 120(b), 324, 302 r/w 34 IPC.

3. The grievance of the petitioner is that P.W.6 was examined in chief on 15.12.2016, P.Ws.24 and 25 were examined on 12.01.2017 and P.Ws.26 and 27 were examined in Chief on 20.01.2017, and 30.01.2017. Since A1 to A3 did not cross examine the above said witnesses on these days, the petitioner/A-4 also was not in a position to cross examine them. Hence, he filed an application on 02.02.2017, after closing all the prosecution witnesses to recall the above prosecution witnesses for the purpose of cross examine them. But, the trial

Court dismissed the application and hence he has come forward with the present petition.

4. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and perused the materials available on record.

5. Since the petitioner is an accused in a murder case and in order to give an opportunity to defend his case, in the interest of justice, the criminal original petition is allowed and the trial Court is directed to recall P.Ws.6, 24, 25, 26 and 27 and the petitioner/A-4 alone is permitted to cross examine the above said witnesses preferably on 06.03.2017 and on 07.03.2017, thereafter questioning the accused under Section 313 Cr.P.C, and hearing the arguments, the trial Court is directed to deliver Judgment within a period of one month. Consequently, connected M.P. is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The XV Additional Sessions Judge,
Chennai.

2 The Inspector of Police
R2 Kodambakkam Police Station,
Chennai 600 024

3 The Public Prosecutor,
High Court, Madras-104.

+1cc to Mr.A.D. Jagadish Chandira, Advocate, S.R.No.12515

md(28/02/2017)

Cr1.O.P.No.3729 of 2017