

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2017

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.21481 of 2017

N.Kannan

.. Petitioner

Vs.

State of Tamilnadu
Represented by
The Inspector of Police
Vigilance & Anti Corruption
Chennai City I Detachment
Chennai

.. Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the order passed by the Learned Special Court for the cases under the Prevention of Corruption Act, Chennai dated 05.10.2017 made in CrI.M.P.No.2447 of 2017 in C.C.No.110 of 2011.

For Petitioner : Mr.K.S.Dhinakaran, Senior Counsel
for M/s.S.Karthikeyan

For Respondent : Mr.C.Iyyaparaj,
Government Advocate (crl.side)

ORDER

This Criminal Original Petition is directed against the order passed by the trial Court, on 05.10.2017, made in CrI.M.P.No.2447 of 2017, in C.C.No.110 of 2011, dismissing the application filed by the petitioner under Section 311 of Cr.P.C., to recall P.W.6 and P.W.10, for cross examination.

2. The trial Court, on perusal of the record, has stated that the petition is dismissed on the ground that the case was taken on file on 24.08.2006. P.W.6 was cross examined in chief on 21.06.2010, thereafter, application to recall P.W.6 was filed by the petitioner/accused after a lapse of 6 years and the same was allowed and P.W.6 was cross examined on 14.06.2016. Thereafter, incriminating evidence against the petitioner/accused was put to accused under Section 313 of Cr.P.C., and the matter is now posted for arguments.

3. At this juncture, the above Criminal Miscellaneous Petition has been belatedly filed to recall P.W.6 and the Investigating Officer - P.W.10 to elicit the contradictions. The trial Court has found that this petition which is filed after a lapse of 7 years, to recall P.W.6 for the second time is with

an intention to drag on the proceedings and to fill up the lacuna. For this reason, the trial Court has dismissed the above Criminal Miscellaneous Petition. This Court could not find any fault in the said observation of the trial Court.

4. The learned counsel appearing for the petitioner submits that a very vital contradiction is omitted to be put to the petitioner/accused, which may prejudice the petitioner greatly and if one chance is given, he will cross examine the witnesses on the same day and will not cause any hindrance to the progress of the trial Court.

5. The learned Government Advocate submits that if the petitioner/accused give undertaking that he will cross examine both the witnesses P.W.6 and P.W.10 on the same day and will not seek any further adjournment, then the request may be considered on payment of cost.

6. Balancing the rival contentions, this Court is of the opinion that the petitioner/accused shall pay cost of Rs.2,000/- (Rupees Two Thousand Only) to each of the witnesses P.W.6 and P.W.10 and on such payment the witnesses may be recalled. On appearance of the witnesses the petitioner shall complete the cross examination of both the witnesses on the same day.

7. It is submitted by the learned Government Advocate (crl.side) that the trial is posted on 13.10.2017. So on or before 13.10.2017, the petitioner shall deposit the cost and seek recall of P.W.6 and P.W.10. The trial Court shall cause summons to these witnesses at the earliest and get along with the trial. With this observation the Criminal Original Petition is disposed of.

8. With the above directions, the Criminal Original Petition is disposed of.

Index:Yes/No

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11.10.2017

Note: Issue order copy on 11.10.2017

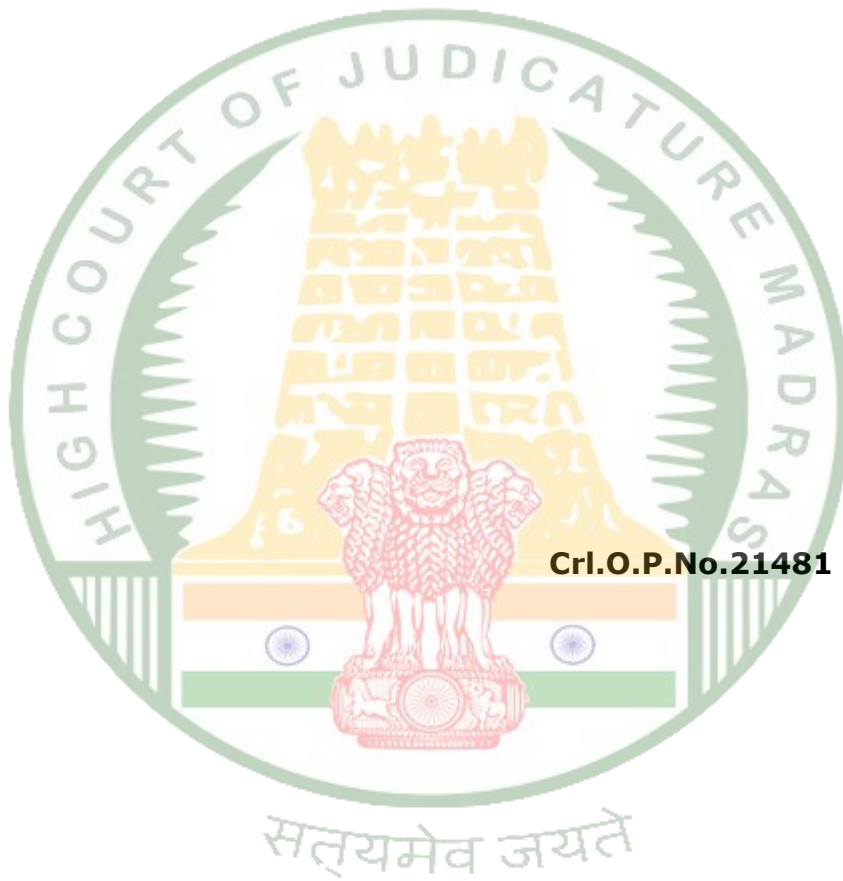
To

1. The Inspector of Police
State of Tamilnadu
Vigilance & Anti Corruption
Chennai City I Detachment
Chennai

2. The Public Prosecutor,
High Court, Madras.

DR.G.JAYACHANDRAN.J,

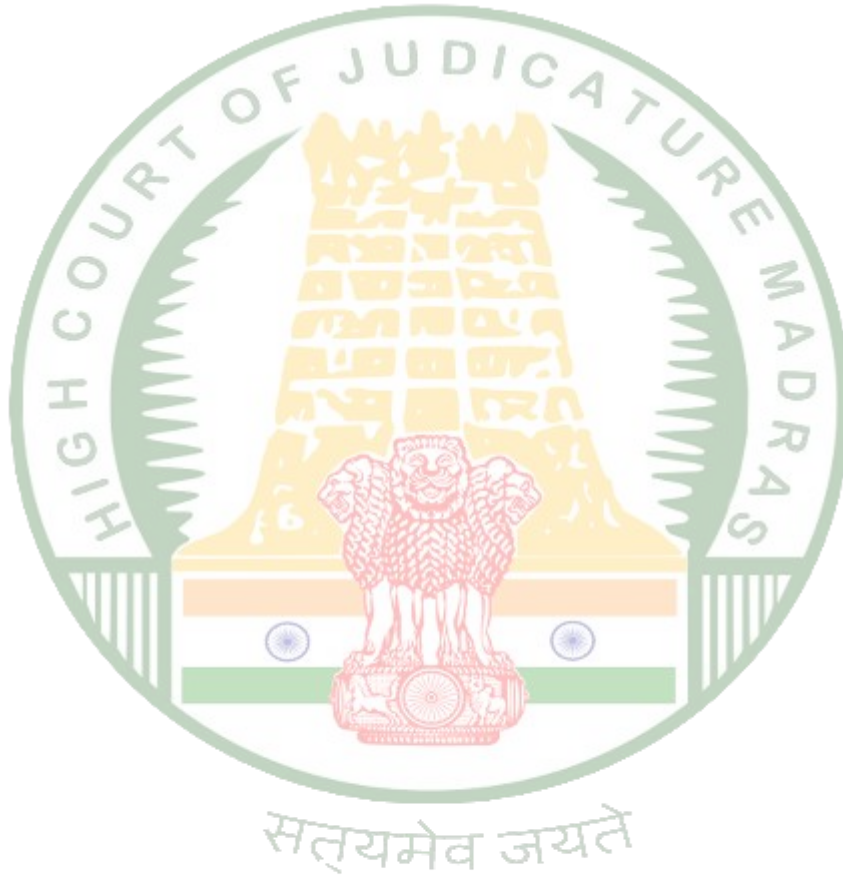
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