

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2017

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Crl.O.P.Nos.2152 to 2154 of 2017  
and  
Crl.M.P.No.1539 of 2017

S.Viswanathan ... Petitioner in all the  
Crl.O.Ps.

Vs

The Inspector of Police,  
C.C.I.W./C.I.D.Tiruvannamalai P.S.,  
Tiruvannamalai. ... Respondent in all  
Crl.O.Ps.

Crl.O.P.No.2152 of 2017 filed under Section 482 of the Criminal Procedure Code, to call for the records in C.M.P.No.2260 of 2016 in C.C.No.398 of 2016 on the file of the Judicial Magistrate No.II, Vellore dated 26.12.2016 and to set aside the same as against the provisions of law.

Crl.O.P.No.2153 of 2017 filed under Section 482 of the Criminal Procedure Code, to call for the records in C.M.P.No.2259 of 2016 in C.C.No.397 of 2016 on the file of the Judicial Magistrate No.II, Vellore dated 26.12.2016 and to set aside the same as against the provisions of law.

Crl.O.P.No.2154 of 2017 filed under Section 482 of the Criminal Procedure Code, to call for the records in C.M.P.No.2258 of 2016 in C.C.No.3 of 2004 on the file of the Judicial Magistrate No.II, Vellore dated 26.12.2016 and to set aside the same as against the provisions of law.

For Petitioner : Mr.A.Thiagarajan, Sr.Counsel  
for Mr.S.Ramesh Kumar

For Respondent : Mr.C.Emalias,  
Additional Public Prosecutor

COMMON ORDER

The Trial Court, by order dated 14.12.2016, permitted the petitioner herein under Section 91 of Cr.PC to mark certain documents and accordingly those documents were placed before the Trial Court and on such production, the petitioner herein filed

applications under Section 311 of Cr.PC to recall certain witnesses for cross-examination, and the same came to be dismissed on 26.12.2016, against which the present Criminal Original Petitions have been filed.

2.Mr.C.Emalias, learned Additional Public Prosecutor, takes notice for the respondent.

3.The learned senior counsel appearing for the petitioner submitted that without granting any opportunity to the petitioner, the impugned order has been passed.

4.Time and again, the Courts have held that adequate and ample opportunities have to be given to the persons seeking cross-examination of witnesses by recalling, related to certain documents marked under Section 91 of Cr.PC. When such being the case, the denial of opportunity to the petitioner is fatal to entire proceedings. Hence the impugned order dated 26.12.2016 is set aside and the Judicial Magistrate-II, Vellore is directed to recall the witnesses as prayed for by the petitioner, under Section 311 of Cr.PC, on 27.02.2017 and complete the cross-examination on that day itself. The parties shall appear and the cross-examination shall be completed on that day itself and no further petition under Section 311 of Cr.PC shall be entertained.

5.The Criminal Original Petitions are disposed of accordingly. Consequently, the connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS III )

/true copy/

Sub Asst. Registrar

To

1.The Inspector of Police,  
C.C.I.W./C.I.D.Tiruvannamalai Police Station,  
Tiruvannamalai.

2.The Judicial Magistrate, NO11  
Vellore.

3.The Public Prosecutor,  
High Court, Madras.

+3cc to M/S.S. Ramesh Kumar Advocate, SR. 8658

CrI.O.P.Nos.2152 to 2154  
of 2017 and  
CrI.M.P.No.1539 of 2017

RP(CO)  
VR(17/02/2017)