

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.22053 of 2017
and Crl.MP.No.12959 of 2017

1. M.Suresh
2. K.Moorthi
3. M.Selvi

.. Petitioners

Vs.

The Assistant Commissioner of Police,
M.K.B.Nagar Range, Pulianthope
Vyasarpadi, Chennai - 39.

..Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pertaining to Crl.M.P.No.13950 of 2017 in SC.No.422 of 2012 pending on the file of the Sessions Judge Mahila Court, Chennai and set aside the order dated 22.09.2016 passed in Crl.M.P.No.13950 of 2017 in SC.No.422 of 2012 by setting aside the same and allow the application Crl.M.P.No.13950 of 2017 in SC.No.422 of 2012.

For Petitioners : Mr.R.Narendran
For Respondent : Mr.C.Iyyappa Raj
Addl.Public Prosecutor

O R D E R

The Petitioner's request to recall and cross examination of PW9 and PW10 under Section 311 of Code of Criminal Procedure was rejected on the ground that the petitioner has not stated any reason for further cross examination of PW9 and PW10 and did not exercise the option of cross examination when the PW9 and PW10 was present. Challenging the same, the present petition is filed.

2. It is true that the Hon'ble Supreme Court in various cases condemned the practices of vexatious applications filed under Section 311 of Cr.P.C to protract the proceedings.

3. Nevertheless, the learned counsel for the petitioner submitted that the petitioner may be given an opportunity for cross examining the prosecution witness PW9 and PW10 to prove

that the allegation of the respondent in the complaint is false.

4. In view of the submissions made by the petitioners, by giving another opportunity to cross examine the prosecution witness PW9 and PW10, by fixing the time frame for completing the cross examination will not cause prejudice to the prosecution and by fixing such time frame, the proceedings may not get unjustifiably prolonged.

5. Hence the order passed in CrI.M.P.No.13950 of 2017 in S.C.No.422 of 2012, dated 22.09.2016 by the learned Sessions Judge Mahila Court, Chennai is set aside. Consequently, the learned Sessions Judge Mahila Court, Chennai, is directed to permit the petitioners to recall and cross examine PW9 and PW10 on 14.11.2017. It is made clear that the petitioners shall complete the cross examination on the same day.

6. With the above observations and directions, the Criminal Original Petition stands disposed of. Consequently, the connected Miscellaneous Petition is also closed.

s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

dpq

To

1. The Sessions Judge
Mahila Court, Chennai.
2. The Assistant Commissioner of Police,
M.K.B.Nagar Range, Pulianthope
Vyasarpadi, Chennai - 39.
3. The Public Prosecutor
High Court, Madras.

+1 Cc to Mr. Narendran, Advocate sr 78789.

CrI.O.P.No.22053 of 2017
and CrI.MP.No.12959 of 2017

MG (CO)
SP (21/11/2017)