

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.22177 of 2017

and

Crl.M.P.No.13026 of 2017

A.Chidambaram

.. Petitioner

Vs.

Vasuki Rajagopal ... Respondent
rep by her power Agent Dr. Iyyappan

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the Order made in Crl.M.P.No.1804 of 2017 in C.C.No.12229 of 2007 passed by the Fast Track Court - III Metropolitan Magistrate Court, Saidapet, Chennai dated 03.10.2017.

For Petitioner : Mr.R.Muniyapparaj
For Respondent : Mr.S.Sivakumar

O R D E R

The Petitioner's request to recall and cross examination of PW1 under Section 311 of Code of Criminal Procedure was rejected on the ground that the petitioner has not stated any reasons for further cross examination of PW1 and did not exercise the option of cross examination when the P.W.1 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. The learned counsel for the petitioner/accused, on the other hand submitted that he would endeavor to trace the witness and produce him before the Court for the purpose of examining him on a given day. It is clear that if the petitioner is unable to examine the said witness for whatever reason, no further opportunity will be granted to him. Before parting with the case, it would be appropriate to direct the trial Court to complete the proceedings within a period of two months from the

date of receipt of a copy of this order to ensure that the petitioner does not protract the proceedings, by taking note of the fact, that this Court on an earlier occasion had issued similar orders to expedite the trial.

4. In view of the submissions made by the petitioner, by giving another opportunity to cross examine the prosecution witness PW1, 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. The learned counsel for the respondent/complainant submitted that since the said witness has already retired, it would not be possible to trace.

6. Hence the order passed in Crl.M.P.No.1804 of 2017 in C.C.No.12229 of 2007, dated 03.10.2017 by the learned Fast Track Court - III Metropolitan Magistrate Court, Saidapet, is set aside. Consequently, the learned Fast Track Court - III Metropolitan Magistrate Court, Saidapet, is directed to permit the petitioner to recall and cross examine P.W.1 on 12.12.2017. It is made clear that the petitioner shall complete the cross examination on the same day.

7. 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

True Copy

Sub-Assistant Registrar

सत्यमेव जयते

AT
To

1. The Presiding Judge
The Fast Track Court
III Metropolitan Magistrate Court,
Saidapet, Chennai.

2. Do Thro The Chief Metropolitan Magistrate
Chennai.

+1 CC to Mr.S. Sivakumar, advocate sr 84259.

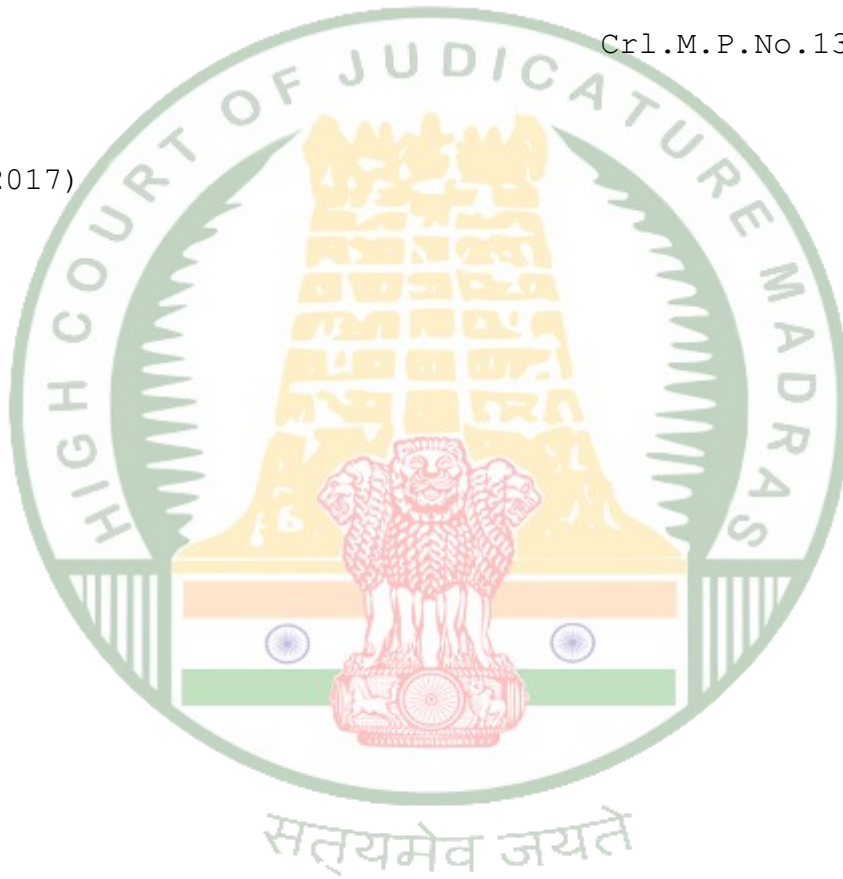
+1 CC to Mr.R. Muniyapparaj, Advocate sr 84104.

Crl.O.P.No.22177 of 2017

and

Crl.M.P.No.13026 of 2017

MR (CO)
SP (29/11/2017)



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