

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2017

CORAM:

THE HON'BLE MR.JUSTICE S.BASKARAN

Crl.O.P.No.2691 of 2017
and Crl.M.P.No.1894 of 2017

K.Vinayagamoorthy

..Petitioner/Accused

Vs

The State
rep. By the Inspector of Police
Vigilance and Anti corruption
Vellore
Cr.No.17/2014

..Respondent/Complainant

Crl.O.P. filed Under Section 482 of Cr.P.C., to call for the records on the file of the Special Judge/Chief Judicial Magistrate, Vellore in Crl.M.P.No304 of 2016 in Special case No 12 of 2014 and set aside the same.

For Petitioner : Mr.S.Poorna Chandran
For respondent : Mr.E.Raja, Addl.Public Prosecutor

ORDER

This Criminal Original Petition is filed against the order dated 30.09.2016 passed by the Special Judge/Chief Judicial Magistrate, Vellore, in Crl.M.P.No.304 of 2016 in Special Case No.12 of 2014.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent/State.

3. It is contended by the learned counsel for the petitioner that before the trial court, the petitioner could not appear because of ill-health and could not give instructions regarding the cross examination of P.W.3 and his counsel has not cross examined P.W.3 in full. The learned counsel further represented that the counsel for the accused was changed subsequently and the new counsel filed the petition in C.M.P.No.304 of 2016, to recall P.W.3 before the trial court to cross examine further. But, the same was rejected by the trial court pointing out the reasons stated in the impugned order.

4. Aggrieved over the same, the petitioner/accused has come forward with the above petition contending that cross examination of P.W.3 was not completed in respect of some vital issues and an opportunity be provided to the petitioner to do further cross examination.

5. Learned counsel for the petitioner also given an undertaking that cross will be done on the same day by the accused before the trial court when P.W.3 was recalled. Thus, the learned counsel seeks to entertain the present Crl.O.P.

6. The learned Additional Public Prosecutor appearing for the State also has no serious objection except stating that the petitioner would not be allowed to protract the proceedings.

7. It is brought to the attention of this court that only upto P.W.3 are examined and the case is pending for examination of further Witnesses. In such circumstances, considering the reasons stated by the petitioner, to meet the ends of justice, this court is inclined to permit the petitioner/accused to further cross examine P.W.3 as sought for by him.

8. In the result, this Crl.O.P., is allowed. The petitioner/accused is directed to complete the cross examination of P.W.3 on the same day when the witness is produced before the trial court and no further adjournment would be sought for by the petitioner, to complete the cross before the trial court. Connected M.P., is closed.

s/d-
Assistant Registrar

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Sub-Assistant Registrar

To

1. The Inspector of Police
Vigilance and Anti corruption, Vellore
2. The Special Judge/Chief Judicial Magistrate, Vellore.
3. The Public Prosecutor, High Court, Madras

Crl.O.P.No.2691 of 2017

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