

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.29064 of 2017

K.Pugazhendhi

.. Petitioner

Vs.

The Inspector of Police,
K-10, Koyambedu Police Station,
Koyambedu, Chennai.
(Crime No.2567 of 2004)

..Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the order dated 15.12.2016 made in Crl.M.P.No.4521 of 2016 passed by the learned V Metropolitan Magistrate, Egmore, Chennai and to direct the V Metropolitan Magistrate, Egmore, Chennai to recall the P.W.1 for cross examination.

For Petitioner : Mrs.M.Kalyani

For Respondent : Mrs.Saratha Devi.V.
Government Advocate (Crl. Side)

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 PW1 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 PW1 to prove that the allegation of the respondent in the complaint is false.

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. Hence the order passed in CMP No.4521 of 2016 in C.C.No.6836 of 2005, dated 15.12.2016 by the learned V Metropolitan Magistrate, Egmore, Chennai is set aside. Consequently, the learned V Metropolitan Magistrate, Egmore, Chennai, is directed to permit the petitioner to recall and cross examine PW1 on 29.01.2018. It is made clear that the petitioner shall complete the cross examination on the same day.

With the above observations and directions, the Criminal Original Petition stands disposed of.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,
K-10, Koyambedu Police Station,
Koyambedu, Chennai.

2.The V Metropolitan Magistrate,
Egmore, Chennai.

+lcc to Mr.M.Kalyani, Advocate, S.R.No.4286

CRL.O.P.No.29064 of 2017

ss(CO)
RRK(03/02/2018)