

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2017

CORAM : THE HONOURABLE Mr. JUSTICE N.SESHASAYEE

Crl.OP.No.26312 of 2010

M.Parameswaran

...Petitioner

Vs.

State by

The Inspector of Police,
All Women Police Station (Central),
Coimbatore.
(Crime No.65 of 2005)

...Respondent

Prayer : Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records and to set aside the order passed in Crl.M.P.No.217 of 2010 in S.C.No.275 of 2005 pending on the file of the learned Sessions Judge, Magalir Neethimandram, Coimbatore District by order dated 11.8.2010.

For Petitioner :Mr.N.Sudharsan

For Respondent :Mr.B.Ramesh Babu
Government Advocate [Crl Side]

ORDER

This petition is filed challenging the order of the lower Court in dismissing the petitioner's prayer to recall P.W.1, P.W.2, P.W.15 and P.W.16 for cross-examination in S.C.No.275 of 2005 on the file of Magalir Court, Coimbatore.

2. Dismissing the petition filed by the petitioner/accused, the learned Sessions Judge has reasoned in his order that the prosecution side evidence was closed and on 11.07.2007, and that the petitioner was questioned under Sec.313 Cr.P.C. Thereafter, the petitioner had filed CMP.No.163 of 2007 to recall P.W.3 to P.W.15 and the same was allowed. Thereafter, he filed CMP.No.118 of 2008 on 03.06.2008, this time to recall P.W.7, P.W.10 and P.W.15 for cross-examination. That was dismissed by the Sessions Court on 16.6.2008, as against which the petitioner had preferred CRP.No.19396 of 2008 before this

Court and the same was dismissed on 08.08.2008. It appears that as per the direction of this Court, the petitioner has to be given one more opportunity for recalling the witnesses and such application should have been filed before 28.08.2008. Thereafter, the petitioner had filed CMP.No.423 of 2009 on 31.12.2009 and the same appears to have been allowed on 08.2.2010. In this, he wanted to examine P.W.8, P.W.9 and P.W.12. It is based on the general approach of the petitioner towards conduct in vis-a-vis the trial of the case, the Sessions Judge has dismissed the application filed by the petitioner under Sec.311 Cr.P.C. vide impugned order.

3. I am in full concurrence with the learned District Judge. The petitioner's conduct hardly inspires confidence of this Court inasmuch as he keeps on recalling the witnesses and cross-examining them in instalments, which is an unknown procedure. Sec.311 Cr.P.C. does not give licence to litigation and it is impermissible to any Court to give life to both the litigation and aspirations of such litigants. Even in the present petition in which the order passed by the trial Court is now under challenge, no credible reason has been adduced as to why these witnesses have to be recalled. The road to speedy justice is not a one way traffic, on that side either of the litigant or the Court should show interest but it is the co-operation offered, in which each litigant has a role to play. If, the procedure is attempted to be misused for delaying the judicial process, it will be hardly tolerated. I find no merit in this application and the same is dismissed.

4. The learned District Judge is directed to dispose of the matter on or before 13.04.2017. The order is directed to be communicated to the Magistrate Court, Coimbatore, forthwith.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

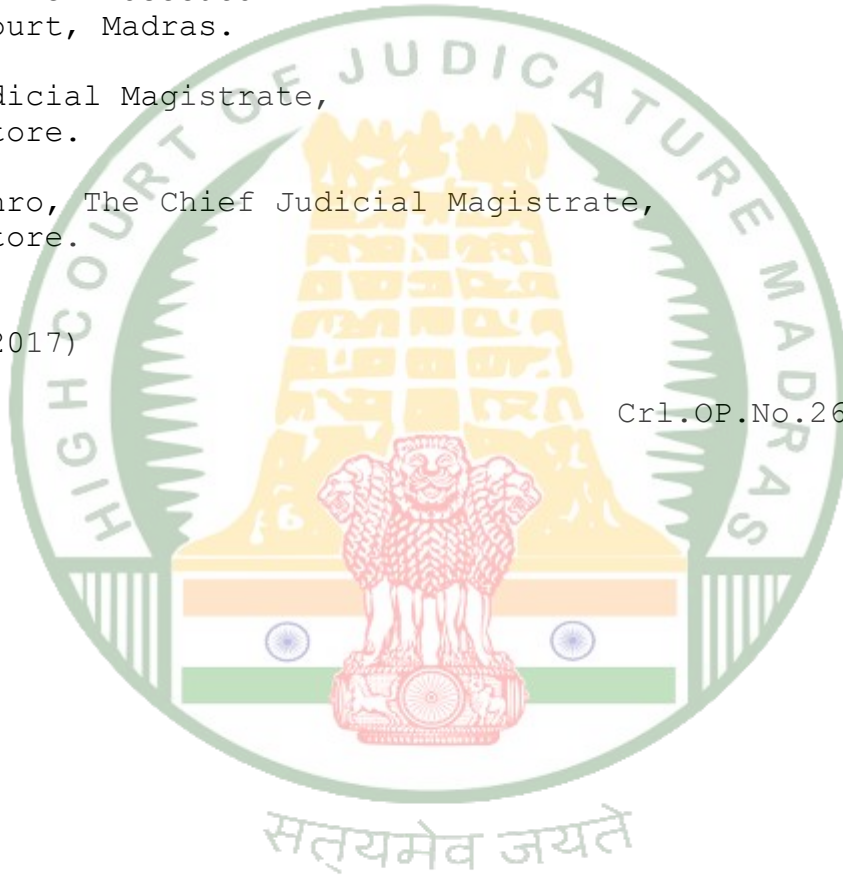
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To

1. The learned Sessions Court
Magalir Neethimandram,
Coimbatore District.
2. The Inspector of Police,
All Women Police Station (Central),
Coimbatore.
3. The Public Prosecutor
High Court, Madras.
4. The Judicial Magistrate,
Coimbatore.
5. -do- Thro, The Chief Judicial Magistrate,
Coimbatore.

NM (CO)
RS (24.03.2017)

Crl.OP.No.26312 of 2010



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