

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2017

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

Criminal Original Petition No. 2609 of 2001
and Crl.M.P.No.981 of 2001

N.Sassikala

... Petitioner/A-2

Vs

1. State represented by:
Superintendent of Police,
Vigilance and Anti Corruption,
Chennai.
2. Mr.Subramanian Swamy
No.1, Papanasam Sivan Salai,
Mylapore, Chennai-600 004. ... Respondents

(Impleaded as per the order of this Court
dated 27.08.2002 made in
Crl.M.P.No.8524 of 2002)

Criminal Original Petition filed under Section 482 of the
Cr.P.C to set aside the order dated 02.02.2001 made by the XI
Additional Sessions Judge/Special Judge No.1, Chennai, made in
the Memorandum of the Petition dated 05.01.2001.

For Petitioner : Mr.A.Navaneethakrishnan
Senior Counsel for
M/s.S. Venkatesh
A. Kandasamy

For First Respondent : Mr.E. Raja,
Additional Public Prosecutor

For Second Respondent : No Appearance

O R D E R

The learned Senior Counsel appearing for the
petitioners would contend that the order of witness batta
imposed by the trial court, to be paid by the petitioner to
the witness is not in accordance with law. Hence, the order
of trial Court is liable to be dismissed.

2. On perusal of the records it appears that when the
accused filed an application to recall the witness P.W.232,
the trial Court allowed the petition to recall the witness on

payment of witness batta to the witness Mr. Subramania Swamy, leader of one of the political parties i.e., Janatha Party. The trial court has ordered the accused to pay Rs.7,900/- to the witness as witness batta.

3. As per the provision under Section 312 of Cr.P.C., that any criminal Court may subject to any rules made by the State Government, order payment on the part of Government, of the reasonable expenses of any witnesses attending court for the purpose of any trial, the trial Court ordered payment of cost. Further it is to be noted when the court witness has been recalled, the court taking into consideration of the status of the witness as contemplated under Section 411 of Criminal Rules of Practice, ordered the party to pay the cost of witness batta.

4. The learned Additional Public Prosecutor has submitted that the main case itself disposed of by the Honourable Supreme Court and hence this petition, challenging the order of the XI Additional Sessions Judge, Special Judge-1, Chennai, is liable to be dismissed.

5. Considering the above, this Court is of the view that the learned trial Judge has observed the provisions contemplated under Section 312 of Criminal Procedure Code, as well as under Section 411 of Criminal Rules of Practice, and ordered to pay reasonable witness batta to the witness and this court does not find any reason to interfere with the same. Hence, the Criminal Original Petition is liable to be dismissed.

6. In fine, the Criminal Original Petition is dismissed. Consequently, connected M.P. is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ggs
TO

1. XI Additional Sessions Judge/Special Judge No.1, Chennai.
2. The Superintendent of Police, Vigilance and Anti Corruption, Chennai.
3. The Public Prosecutor, High Court, Madras.

Crl. O.P. No. 2609 of 2001
and

Crl.M.P.No.981 of 2001