

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2018

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.6222 of 2018

Muthaiyan

.. Petitioner

Vs.

Stated by

The Inspector of Police,
F-4, Thousand Light Police Station,
Chennai.

..Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the order passed in Crl.M.P.No.18153 of 2017 in S.C.No.13 of 2013 dated 16th December 2017 by the learned IV Additional Sessions Judge, Chennai and to recall the prosecution witness P.W.1, P.W.4, P.W.6, P.W.8 and P.W.9.

For Petitioner : Mr.N.Sundharsan

For Respondent : Mrs.Kritika Kamal.P
Government Advocate (Crl.Side)

O R D E R

The Petitioner's request to recall and cross examination of P.W.1, P.W.4, P.W.6, P.W.8 and P.W.9 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 P.W.1, P.W.4, P.W.6, P.W.8 and P.W.9 and did not exercise the option of cross examination when the P.W.1, P.W.4, P.W.6, P.W.8 and P.W.9 were 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 P.W.1, P.W.4, P.W.6, P.W.8 and P.W.9 to prove that the allegation of the respondent

in the complaint is false.

4. In view of the submissions made by the petitioner, by way of giving another opportunity to cross examine the prosecution witness P.W.8 , 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.18153 of 2017 in S.C.No. 13 of 2013, dated 21.04.2017 by the learned IV Additional Sessions Judge, Chennai, is set aside. Consequently, the learned IV additional Sessions Judge, Chennai, is directed to permit the petitioner to recall and cross examine P.W.8 on 23.03.2018. It is made clear that the petitioner shall complete the cross examination on the same day.

6. According to the petitioner, since he has not cross examined P.W.8 alone, it would not be appropriate to permit the petitioner herein cross examination the other witnesses.

With the above observations and directions, the Criminal Original Petition stands allowed

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

dna

To

1.The IV Additional Sessions Judge, Chennai.

2.The Inspector of Police,
F-4, Thousand Light Police Station,
Chennai.

3.The Public Prosecutor, High Court, Madras.

+1cc to Mr.N.Sudharsan, Advocate, S.R.No.19965

CRL.O.P.No.6222 of 2018

KJ(CO)
RRK(13/04/2018)