

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.871 of 2018
and Crl.M.P. No. 289 of 2018

R.Kalaiselvi

.. Petitioner

Vs.

R.Rajalakshmi

..Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in Crl.M.P.No.6608 of 2017 in CC No.4028 of 2011 on the file of the Metropolitan Magistrate, Fast Track Court -I, Allikulam, Egmore, Chennai and set aside the same.

For Petitioner : Mr.C.T.Murugappan

O R D E R

The Petitioner's request to recall and cross examination of complainant under Section 311 of Code of Criminal Procedure was rejected on the ground that the petitioner has vaguely filed the petition without perusing the case bundle and records for further cross

examination of complainant and did not exercise the option of cross examination when the complainant 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 complainant 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 complainant, 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 CrI.M.P.No. 6608 of 2017 in C.C.No. 4028 of 2011, dated 21.12.2017 by the learned Metropolitan Magistrate, Fast Track Court-I, Egmore, Allikulam is set aside. Consequently, the learned Metropolitan Magistrate, Fast Track Court-I, Egmore, Allikulam, is directed to permit the petitioner to recall and cross examine complainant on 19.01.2018. 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. Consequently, the connected Miscellaneous Petition is also closed.

AAV

11/01/2018

FOR BEING MENTIONED

This matter having been listed on 23/01/2018 'Order the caption for Being mentioned' in pursuance of the Order of the Court dated 11/01/2018 and made herein in the presence of Mr.C.T.Murugappan, Advocate for the petitioner, and Mr.Praveen Alexander, Advocate for the Respondent, this Court made the following Order:-

Today the matter is listed under the caption for "Being mentioned" at the instance of the learned counsel for the petitioner.

2. As prayed for, in continuation of my earlier order dated 11.01.2018, the petitioner is permitted to cross examine PW1 on 29.01.2018. It is made clear that the petitioner shall complete the cross examination on the same day. No further time will be granted to the petitioner to cross examine PW1.

Sji/aav

23/01/2018

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The Metropolitan Magistrate,
Fast Track Court I,
Egmore, Allikulam.

2.Do Through The Chief Metropolitan Magistrate,
Egmore Chennai.

+1cc to Mr.A.Gokula Krishnan, Advocate, S.R.No.5252

+1cc to Mr.P.Praveen Alexander, Advocate SR.No.4904

CRL.O.P.No.871 of 2018

RRK(17/01/2018)

GN(29/01/2018)