

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.21407 of 2017

1.Murugan

2.Parthiban

.. Petitioners

Vs.

State Represented by:
Inspector of Police,
K-8, Arumbakkam Police Station,
Chennai.
Crime No.473/2009

..Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the order dated 10.05.2017 in Crl.M.P.No.291 of 2017 in C.C.No.457 of 2010 by the learned V Metropolitan Magistrate and to direct learned Metropolitan Magistrate to recall the P.W.1, P.W.2, P.W.3, P.W.4 and P.W.6 for the purpose of cross examination.

For Petitioner : M/s.S.N.Arun Kumar
For Respondent : Mrs.Kritika Kamal.P
Government Advocate (Crl. Side)

ORDER

The Petitioner's request to recall and cross examination of P.W.1, P.W.2, P.W.3, P.W.4 and P.W.6 under Section 311 of Code of Criminal Procedure was considered by the learned V Metropolitan Magistrate, Egmore was rejected on the ground that the petitioner has not stated any reasons and did not exercise the option of cross examination when they 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 PW.1 and PW.6 to prove his innocence.

4. In view of the submissions made by the petitioner and by giving another opportunity to cross examine the prosecution witness P.W.1 and P.W.6 by fixing the time frame for completing the cross examination will not cause prejudice to the prosecution and the proceedings may not get unjustifiably prolonged.

5. Hence the order passed in Crl.M.P No.291 of 2017 in C.C.No.457 of 2010, dated 10.05.2017 by the learned V Metropolitan Magistrate, Egmore, is set aside. Consequently, the learned V Metropolitan Magistrate, Egmore, is directed to permit the petitioner to recall and cross examine P.W.1 and P.W.6 on 21.02.2018. 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.

12.02.2018

Index : Yes/No
Internet : Yes/No
dh

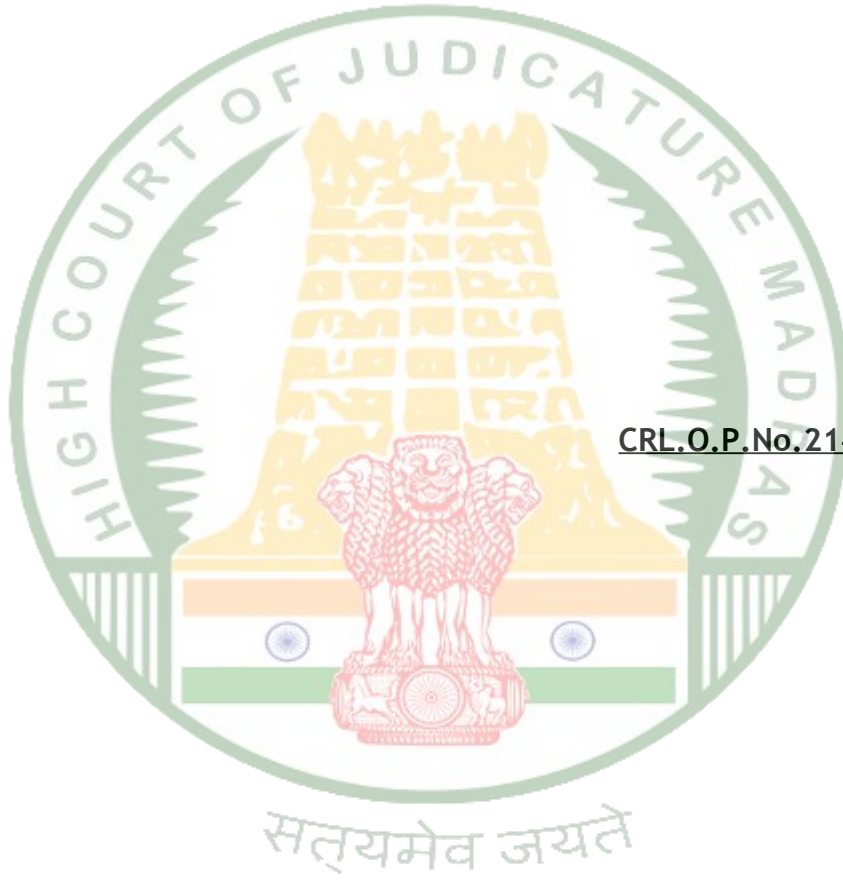
Note: Issue order copy on 14.02.2018

To

1. The learned V Metropolitan Magistrate,
Egmore.
2. The Inspector of Police,
K-8, Arumbakkam Police Station,
Chennai.
3. The Public Prosecutor,
High Court, Madras.

M.S. RAMESH.J.,

dh



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