

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.4816 of 2018
and Crl.M.P.No.2392 of 2018

V.Sankar

.. Petitioner

Vs.

State of Tamil Nadu,
Rep. by the Inspector of Police,
District Crime Branch,
Erode District.
Crime No.41 of 2005

..Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the order dated 03.03.2017 made in Crl.R.C.No.48 of 2016 on the file of the II Additional Sessions Court, Erode confirming the order passed in Crl.M.P.No.3132 of 2016 in C.C.No.542 of 2013 on the file of the Chief Judicial Magistrate, Erode.

For Petitioner : M/s.M.Guruprasad

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

सत्यमेव जयते

O R D E R

The Petitioner's request to recall and cross examination of P.W.8 to P.W.11 under Section 311 of Code of Criminal Procedure was rejected by the learned Chief Judicial Magistrate, Erode in Crl.MP. No. 3132 of 2016 dated 26.10.2016. The petitioner has filed a Crl.R.C. No. 48 of 2016 before the learned II Additional Sessions Judge, Erode to set aside the said order, which came to be dismissed on 03.03.2017. 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.8 to P.W.11 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.8 to P.W.11 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 CrI.M.P.No.3132 of 2016 in C.C.No.542 of 2013 by the learned Chief Judicial Magistrate, Erode, is set aside. Consequently, the Chief Judicial Magistrate, Erode, is directed to permit the petitioner to recall and cross examine P.W.8 and P.W.11 on 26.03.2018 and 27.03.2018. It is made clear that the petitioner shall complete the cross examination on the said dates.

With the above observations and directions, the Criminal Original Petition stands disposed of. Consequently, the connected Miscellaneous Petition is also closed.

Sd
ASSISTANT REGISTRAR(AUDIT)

TRUE COPY

SUB ASSISTANT REGISTRAR

To

1. The II Additional Sessions Judge,
Erode.
2. do Thro' The Principal Sessions Judge, Erode.
3. The Chief Judicial Magistrate, Erode.
4. The Inspector of Police,
District Crime Branch, Erode District.
5. The Public Prosecutor, High Court, Madras.

1CC TO MR. M. GURUPRASAD, ADVOCATE SR.NO. 20253

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DM

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