

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.05.2018

CORAM

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

Crl.OP No.13016 of 2018

and

Crl.M.P.No.6976 of 2018

Rasool Mydeen

..Petitioner/Accused 1

Vs.

Intelligence Officer,
Narcotics Control Bureau,
Chennai Zonal Unit,
Chennai - 90

..Respondent/ Complainant

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order made in CMP.No.348 of 2018, dated 24.04.2018 in C.C.No.21 of 2018, on the file of the Principal Special Court under EC & NDPS Act, Chennai and allow the petitioner to recall P.W.2 and P.W.6 for purpose of cross examination in the interest of justice.

For Petitioner :Mr.G.Murugendran

For Respondent :Mr.N.P.Kumar

For Spl.P.P for NCB cases

ORDER

This Criminal Original Petition has been filed to set aside the order passed by the Principal Special Judge in C.C.No.21 of 2015 on the file of the Principal Special Court under EC & NDPS ACT, Chennai, dated 24.04.2018.

2.The learned counsel for the petitioner has submitted that since the prosecution has not produced the witnesses, the trial Court has closed the prosecution evidence by suo-motu. But, thereafter, the prosecution has filed a petition in Crl.M.P.No.228 of 2018 to re-open the case and permit the prosecution to examine certain witnesses and the trial Court has allowed the said application. He further submitted that at the time of examining P.W.2 and P.W.6, the petitioner could not cross examine them due to Dhana puyal. He further submitted that the learned trial Judge without considering the petitioner's

request has dismissed the petition on the ground that in CrI.O.P.No.14879 of 2017, already the High Court has directed the trial Court to dispose of the case within 4 months from the date of receipt of a copy of the order. He further submitted that the petitioner is in custody and without giving sufficient opportunity, if the case is disposed of, that would cause prejudice to the petitioner. He further submitted that the aforesaid witnesses are material witnesses and he prays to give one more chance to the petitioner for cross examining of P.W.2 and P.W.6.

3. The learned Special Public Prosecutor (CrI.side) who is appearing for the respondent has submitted that inspite of the opportunity given by the trial Court, the petitioner did not cross examine the P.W.2 and P.W.6 and hence, the trial Court has dismissed the petition which was filed by the petitioner. He further submitted that as per the order passed by the trial Court in CrI.M.P.No.228 of 2018, the prosecution did not examine all the witnesses. Once again, the trial Court has closed the prosecution evidence and to re-open the prosecution evidence, the respondent has filed a petition and the trial Court has dismissed the said petition on the ground that already this Court has fixed the time for disposal of the case and hence, he opposed this petition.

4. It is seen from the typed set of papers filed by the petitioner that the trial Court has allowed the prosecution to examine the witnesses by an order dated 03.04.2018 in CrI.M.P.No.228 of 2018. But, the same yardstick has not been followed when the accused has filed a petition to re-call P.W.2 and P.W.6. Therefore, in order to give an opportunity to the petitioner, this Court is inclined to allow this petition.

In the result, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed and the trial Court is directed to give an opportunity to the petitioner to cross examine P.W.2 and P.W.6 and dispose of the matter in accordance with law, within a period of one month from the date of receipt of a copy of this order. The respondent is directed to produce P.W.2 and P.W.6 within a period of one week before the trial Court from the date of receipt of a copy of this order and the petitioner should cross examine both the witnesses without seeking adjournment.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

nvi/gv

To

1.The Principal Special Court
under EC & NDPS Act, Chennai

2. The Intelligence Officer,
Narcotics Control Bureau,
Chennai Zonal Unit,
Chennai - 90

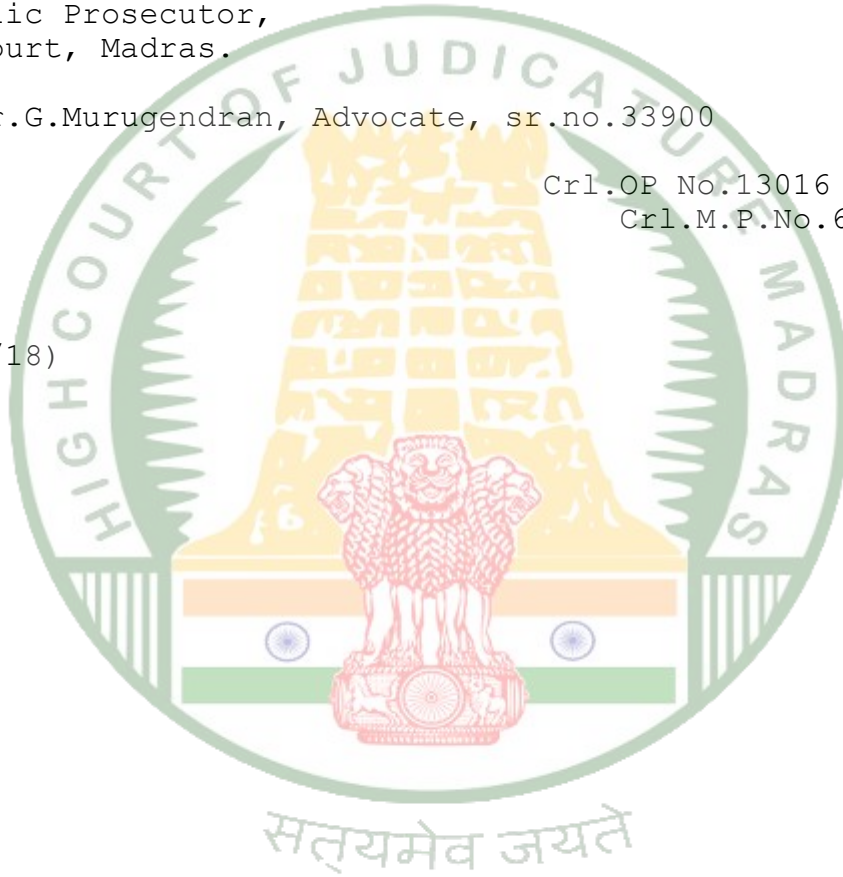
3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.G.Murugendran, Advocate, sr.no.33900

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EV(CO)

RRK(31/05/18)



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