

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 09.11.2018

CORAM:
THE HON'BLE MR.JUSTICE M. DHANDAPANI
Crl.O.P.No.24311 of 2018

M.Varadharajulu

...Petitioner

/Vs/

State Rep.by
The Inspector of Police
CBI/ACB/Chennai
Sastri Bhavan,
Chennai - 600 006.

... Respondent

Prayer in Crl.O.P.No.19394 of 2018: Criminal Original Petition filed under section 482 of Code of Criminal Procedure to set aside the order dated 11.09.2018 made in Crl.M.P.No.5246 of 2018 in C.C.No.58 of 2003 on the file of the VIII Additional Principal Special Judge for CBI Cases, Chennai.

For Petitioner : Mr.N.Ramakrishnan
For M/s.WARAON AND SAI RAMS

For Respondent : Mr. K. Srinivasan
Special Public Prosecutor for
CBI cases

O R D E R

This Criminal Original Petition has been filed by the petitioner against the order dated 10.09.2018 in Crl.M.P.No.5246 of 2018 in C.C.No.58 of 2003 passed by the VIII Additional Principal Special Judge for CBI Cases, Chennai, wherein the learned trial Judge had rejected the petition filed under Section 311 of Cr.P.C.

2. The learned counsel appearing for the petitioner would submit that though the petitioner has filed a petition in Crl.M.P.No.5246 of 2018 in C.C.No.58 of 2003 under Section 311 of Cr.P.C, requesting to recall 12 prosecution witnesses viz., Pws.7, 11, 15, 28, 31, 41, 42, 44, 45, 47, 50 and 60 for the purpose of cross examination, the said request was rejected on the ground that the petition has been filed after more than three months from the date of completion of questioning under Section 313 of Cr.P.C. The lower Court observed that to drag on the proceedings, the petitioner has come forward with the petition under Section 311 Cr.P.C. and dismissed the said petition, against which the present petition has been filed.

Though the petitioner has filed a petition under Section 311 of Cr.P.C to recall 12 prosecution witnesses for the purpose of cross examination, however, he restricted to only Pws. 42, 47 and 60 within a reasonable time. This Court permit the petitioner to cross examine only three witnesses who have spoken against the accused, for which it is necessary to cross examine the witnesses.

3. The learned Special Public Prosecutor for CBI Cases conceded the request made by the learned counsel appearing for the petitioner. In view of the above, I am inclined to set aside the order passed by the lower court. Accordingly, the impugned order passed by the Court below is set aside to the limited extent and the petitioner is permitted to recall the witnesses, viz. Pws.42, 47, 60. Accordingly, the learned Special Public Prosecutor for CBI Cases undertakes to produce the said three witnesses 15.11.2018. On the same day, the petitioner has to cross examine all the three witnesses viz., Pws.42, 47 and 60 and no further time will be granted. After completing the cross examination, the lower Court shall proceed with the matter further in accordance with law.

4. With the above direction, this Criminal Original Petition is allowed.

Sd/-

Assistant Registrar(CS IX)

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Sub Assistant Registrar

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To

1. The VIII Additional Special Judge for CBI Cases, Chennai.
2. The Special Public Prosecutor for CBI Cases, High Court of Madras, Chennai-104.
3. The Inspector of Police
CBI/ACB/Chennai
Sastri Bhavan, Chennai - 600 006.

+1cc to M/s.Waraon and Sai Rams, Advocate, S.R.No.76965

CrI.O.P.No.24311 of 2018

rrs 19/11/2018