

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2018

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.No.24908 of 2018

M.Gopalakrishnan

.. Petitioner/Accused

Vs.

State by
Inspector of Police,
CBI, BSFC/Bangalore.

.. Respondent/ Complainant

PRAYER:Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to set aside the order in CrI.MP.No.6404 of 2018 in C.C.No.36 of 1998 dated 10.10.2018 passed by the learned VIII Additional Special Judge for CBI cases and direct the learned Judge to permit the recall of PW18 Mr.Varadhan and PW70 Mr.Balasubramaniam for the purpose of cross-examination.

For Petitioner : Mr.Sunder Mohan

For Respondent : Mr.K.Srinivasan
Special Public Prosecutor (CBI Cases)

J U D G M E N T

Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to set aside the order in CrI.MP.No.6404 of 2018 in C.C.No.36 of 1998 dated 10.10.2018 passed by the learned VIII Additional Special Judge for CBI cases and direct the learned Judge to permit the recall of PW18 Mr.Varadhan and PW70 Mr.Balasubramaniam for the purpose of cross-examination.

2.The petitioner / Accused No.1 was implicated for the alleged offences under Section 120(B) r/w 420, 109, 467, 471, 468 & 13(1)(c) & (d) of Prevention of Corruption Act, 1988. While the trial was in progress, the petitioner had filed a petition under Section 311 Cr.P.C. before the learned VIII

Additional Special Judge for CBI Cases in CrI.M.P.No.6404 of 2018 dated 10.10.2018 to recall the witnesses of PW18 and PW70 in C.C.No.36 of 1998. The said petition was dismissed as against which the present Criminal Original Petition has been filed.

3.The learned counsel appearing for the petitioner, after some arguments, restricted his prayer to cross-examine only PW18 i.e. Mr.Varadhan and was ready to give up PW70. He would further submit that PW18 has a plan to visit India within a period of two weeks and if PW18 is not visiting India within the stipulated time of two weeks, the petitioner is ready to give up his idea of cross examining PW18. If PW18 visits India, the opportunity shall be given to the petitioner to utilise the same to cross examine PW18 witness on the same day.

4.The learned Special Public Prosecutor (CBI Cases) appearing for the respondent would submit that already co-accused had filed a similar type of petition, which was also dismissed by this Court. He would concede the request of the petitioner to cross examine PW18 if he visits India for his personal purpose.

5.In view of the above, if PW18 on his own volition visits India for his personal purpose within a period of two weeks from the date of receipt of a copy of this order, the same may be informed to the Special Public Prosecutor, who, in turn will arrange for a cross examination of PW18. If PW18 does not turn to India, this order will not stand on the way of Trial Court to proceed further with the case. The Trial Court shall hear the arguments and pass orders in accordance with law.

6.Accordingly, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To.

1.The VIII Additional The Principal Special Judge,
for CBI cases City Civil Court,Chennai

2. The Inspector of Police,
CBI, BSFC/Bangalore.

3.The Spl Public Prosecutor (CBI CASES)
High Court of Madras
Chennai 600 104.

+1cc to Mr.Sunder Mohan, Advocate, S.R.No.97219

Crl.O.P.No.24908 of 2018

NRI (CO)
GSP(30/11/2018)