

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.11.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.25744 of 2018
and CRL.M.P.No.14737 of 2018

T.Russel Raj

.. Petitioner/Accused

Vs

The Inspector of Police,
Central Crime Branch,
XI Team, Egmore,
Chennai - 600 008.

.. Respondent/Complainant

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to set aside the order passed by the learned Magistrate in Crl.M.P.No.291 of 2018 in C.C.No.16429 of 2003 on the file of the CCB & CBCID Metropolitan Magistrate, Egmore.

For Petitioner: Mr.V.K.Sathiamurthy

For Respondent: Ms.M.Prabhavathi,
Additional Public Prosecutor

ORDER

The petitioner is the accused in C.C.No.16429 of 2003 before the CCB and CBCID Metropolitan Magistrate, Egmore, Chennai. The petitioner filed Crl.M.P.No.291 of 2018 in C.C.No.16429 of 2003 under Section 311 Cr.P.C to recall P.W.7 and P.W.11, which has been dismissed by the Trial Court by the impugned order dated 26.09.2018, challenging which the accused is before this Court.

2.Heard Mr.V.K.Sathiamurthy, learned counsel for the accused and learned Additional Public Prosecutor for the respondent.

3.The learned counsel for the accused submitted that P.W.7 and P.W.11 are the two Investigating Officers and it is essential for the accused to cross-examine them. However, the Trial Court has denied his opportunity to cross-examine the said two witnesses.

4.Per contra, the learned Additional Public Prosecutor refuted the contentions of the learned counsel for the accused.

5.On a perusal of the records, it is seen that this case is of the year 2003. 11 witnesses were examined on various dates and the accused was examined under Section 313(i) (b) Cr.P.C on 18.09.2013. Thereafter, the accused filed a petition under Section 311 Cr.P.C to recall P.W.7 & P.W.11, which was allowed by the Trial Court. Accordingly, P.W.7 & P.W.11 appeared before the Trial Court on 17.03.2016. On that day, the accused did not appear before the Trial Court and he absented. On behalf of the accused, a petition under Section 317 Cr.P.C to condone the absence of the accused was filed by his counsel. However the counsel did not choose to cross-examine P.W.7 & P.W.11, who were present in the Court.

6.Mr.V.K.Sathiamurthy submitted that P.W.7 & P.W.11 had come for some other case and not for this case.

7.Even admitting that P.W.7 & P.W.11 had also come for some other case, the fact remains that on 17.03.2016, this case was posted for hearing and they were present on that date. There is no explanation as to why they were not cross-examined on 17.03.2016. Thereafter, the case was adjourned for defence stage and the accused absconded. A Non-Bailable Warrant was issued to the accused, which was recalled only on 22.02.2017. Since then, the case is being adjourned to the following dates: 10.04.2017, 09.05.2017, 30.05.2017, 10.07.2017, 06.09.2017, 27.09.2017, 09.11.2017, 06.12.2017, 26.12.2017, 04.01.2018, and 22.01.2018. On all these dates, no steps were taken by the accused to proceed further with the case. Under such circumstances, this Court does not find any infirmity in the order passed by the Trial Court warranting interference.

Accordingly this petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,
Central Crime Branch,
XI Team, Egmore,
Chennai - 600 008.

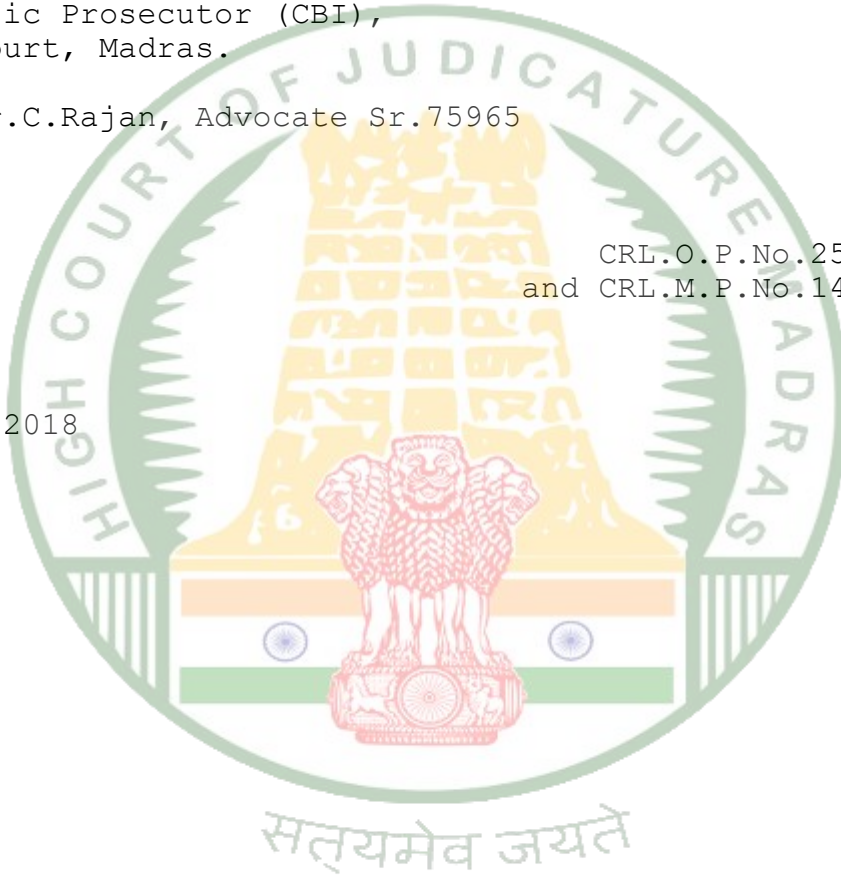
2.The CCB & CBCID Metropolitan Magistrate,
Egmore.

3.The Public Prosecutor (CBI),
High Court, Madras.

+2cc to Mr.C.Rajan, Advocate Sr.75965

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