

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2018

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.29147 of 2018

and

Crl.M.P.No.17048 of 2018

K.Arumugam

.. Petitioner

Vs.

State, Rep. by
Inspector of Police
CBI: ACB: Chennai

.. Respondent

PRAYER:Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to set aside the order passed by the learned ***IX** Additional Special Judge for CBI Cases, Chennai in Crl.M.P.No.7187 of 2018 in C.C.No.13 of 2013 dated 02.11.2018.

For Petitioner : Mr.K.M.Ramesh

For Respondent : Mr.K.Srinivasan

Spl. P.P.(CBI Cases)

O R D E R

This petition has been filed by the petitioner under Section 482 of Criminal Procedure Code to set aside the order passed by the learned ***IX** Additional Special Judge for CBI Cases, Chennai in Crl.M.P.No.7187 of 2018 in C.C.No.13 of 2013 dated 02.11.2018.

2.The petitioner is A3 and a case has been registered against him in RC.MA1.2012.A.0035 by the respondent. After investigation, a final report under Section 173(2) of Cr.P.C. had been filed against the petitioner for the offences under Sections 120B r/w 463 and 464 of IPC & Section 13(2) r/w 13(1) (d) of Prevention of Corruption Act, 1988.

3.During the trial, the prosecution has examined PW37 on 09.10.2018. PW37 i.e. one P.Senthil Kumar, an Officer working in REPCO Bank, T.Nagar Branch, was examined and his deposition was against A1, A2 and A3. On the specific date i.e. on 22.12.2012, PW37 deposed that A3 has received a letter which was in the name of Annapoorani and signed as Annapoorani in the acknowledgment card. The said statement is unwarranted and against the petitioner. Hence, it is necessary that PW37 to be cross examined. Hence, this court may fix a date so that on that particular day PW37 may be cross examined by the petitioner.

4.The learned Special Public Prosecutor (CBI Cases) would submit that the very same request was made before the Trial Court on 24.10.2018 in M.P.No.7178 of 2018 to recall PW7 and PW37. The Trial Court allowed to recall of PW7 but has

dismissed the petition insofar as recall of PW37 stating that it was informed by A3 that A3 do not have any cross examination and cannot seek to recall PW37. The learned Special Public Prosecutor would fairly concede the request made by the learned counsel for the petitioner and would request this Court to fix a date for the cross examination of PW37, so that, he could produce PW37 on the said date after the payment of batta for the expenditure of PW37.

5. Accordingly, the learned Special Public Prosecutor is hereby directed to produce PW37 on ***27.12.2018**. On the said date, the petitioner shall cross examine PW37 after paying necessary batta.

6. In view of the above terms, this Criminal Original Petition is closed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)
Dated: 14/12/2018

*** Amended as per of this Court dated
19/12/2018 and made in
CRL.OP.No. 29147/18**

**Sd/-Assistant Registrar
Dated: 19/12/2018**

//True Copy//

Sub Assistant Registrar

kas

To.

1.The IX Additional Special
Judge, CBI Cases, Chennai.

1.Inspector of Police
CBI: ACB: Chennai

2.The Public Prosecutor
CBI Cases, High Court of Madras

+1cc to Mr.K.M.Ramesh, Advocate, S.R.No.88161

**To be Substitued to this
Order already despatched on
18/12/2018**

Crl.O.P.No.29147 of 2018
and
Crl.M.P.No.17048 of 2018

NRL(CO)
rrs 14/12/2018
GN(19/12/2018)