

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 21.12.2018

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.30288 of 2018
and
Crl.M.P.Nos.17813 & 17815 of 2018

C.Sridharan ... Petitioner/ Petitioner / A3

-Vs-

State By Inspector of Police,
Central Crime Branch,
Bank Fraud Prevention Wing - Team 31,
Vepery,
Chennai - 600 007.... Respondent/ Respondent /Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to set aside the impugned Order dated 20.11.2018 of the Learned CCB & CBCID Metropolitan Magistrate, Egmore, Chennai made in Crl.M.P.No.3132/2017 (Crl.M.P.No.1980/2016) in C.C.No.2360/2017 and direct the Learned magistrate to recall the witnesses, Pws.1,2,3,6 to 9 and 11 to 16 and allow the Counsel for Petitioner to cross examine the witnesses on such terms as this Court may deem fit and proper in the facts and circumstances of the case.

For Petitioner : Mr.S.Ashok Kumar
Senior Counsel for
Mr.A.Sasidharan

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This petition has been filed challenging the order passed by the Court below under Section 311 of Cr.P.C., dismissing the petition filed by the petitioner to recall PW1 to PW16 for the purpose of cross-examination.

2. It is seen from records that PW1 was examined on 16.11.2009, PW2 was examined on 16.11.2009, PW3 was examined on 17.12.2009, PW4 was examined on 21.01.2010, PW5 was examined on 21.01.2010, PW6 was examined on 22.04.2010, PW7 was examined on 22.04.2010, PW8 was examined on 17.06.2010, PW9 was examined on 15.09.2010, PW10 was examined on 31.12.2010, PW11 was examined on

16.07.2012, PW12 was examined on 17.06.2013, PW13 was examined on 17.06.2013, PW14 was examined on 27.08.2013, PW15 was examined on 17.09.2013, PW16 was examined on 26.02.2014, PW17 was examined on 15.07.2014.

3. The petitioner who is A3, is facing the trial for offences under Sections 420, 465, 467, 468, 471 r/w Section 34 of IPC. The petition to recall the witnesses was filed only in the year 2016. It was ultimately disposed of in the year 2018.

4. The Court below has given a specific finding that there are absolutely no reasons stated in the petition as to why the petitioner did not cross-examine the witnesses and as to why the petitioner did not file the petition to recall the witnesses within a reasonable time. The Court below gave a specific finding that the entire attempt has been made only to drag on the proceedings.

5. Mr.S.Ashok Kumar, the learned Senior Counsel appearing on behalf of the petitioner would submit that one last chance may be given to the petitioner to recall the cross-examine PW1 to PW16. The learned Senior Counsel would further submit that the petition itself was kept pending for more than two years before final orders were passed.

6. This Court is not able to agree with the submissions made by the learned Senior Counsel. This Court is not able to see any illegality or infirmity in the order passed by the Court below. Witnesses who have deposed between 2009 to 2014 are now sought to be recalled in toto after a lapse of a very long time. This practice has been condemned and the Hon'ble Supreme Court in the judgment reported in Vinodh Kumar Vs State of Punjab reported in 2015[3] SCC 220. Wherein it has been categorically held that the witnesses have to be cross-examined within a reasonable time. The ratio in the said judgment will squarely apply to the facts of the present case. This Court does not find any ground to interfere with the order passed by the Court below.

7. This Criminal Original Petition is dismissed and the Court below is directed to complete the proceedings within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To

1.The CCB and CBCID Metropolitan
Magistrate court,Egmore.

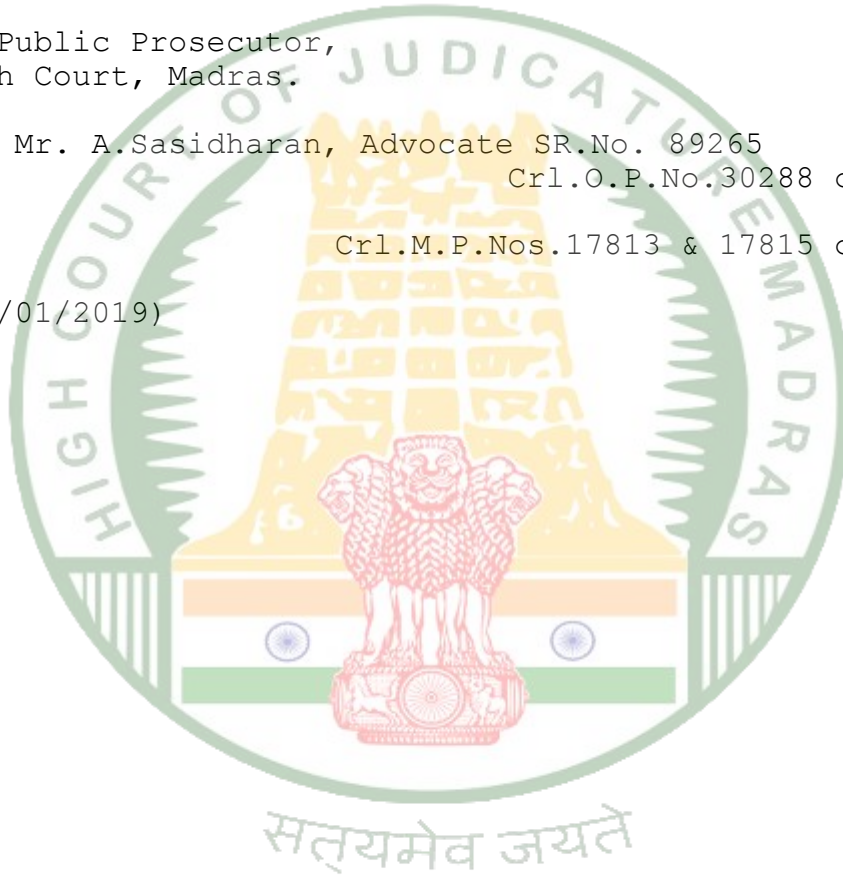
2.Do thro The Chief Metropolitan Magistrate,
Chennai.

3. The Inspector of Police,
Central Crime Branch,
Bank Fraud Prevention Wing - Team 31,
Vepery, Chennai - 600 007.

4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr. A.Sasidharan, Advocate SR.No. 89265
CrI.O.P.No.30288 of 2018
and
CrI.M.P.Nos.17813 & 17815 of 2018

A.SK(21/01/2019)



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