

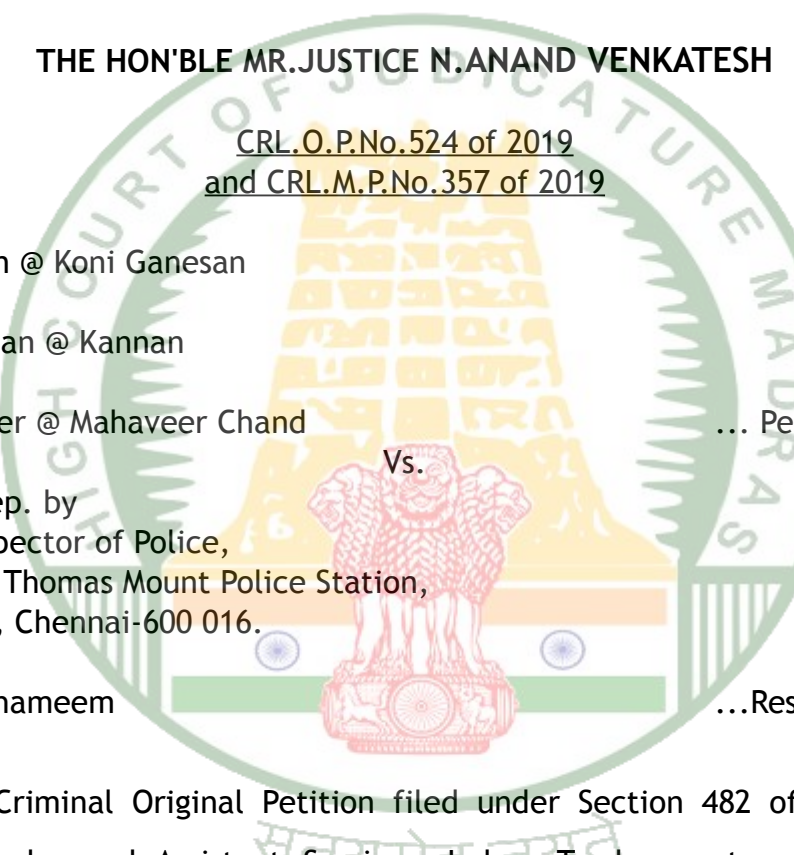
IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2019

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.524 of 2019
and CRL.M.P.No.357 of 2019

- 
1. Ganesan @ Koni Ganesan
2. Saravanan @ Kannan
3. Mahaveer @ Mahaveer Chand ... Petitioners
- Vs.
1. State rep. by
The Inspector of Police,
S-1, St. Thomas Mount Police Station,
Alandur, Chennai-600 016.
2. Sheik Thameem ... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to direct the learned Assistant Sessions Judge, Tambaram to receive and decide upon the petition filed by the counsel appearing for the petitioners 1 to 3/ Accused 1 to 3 under Section 311 of the Criminal Procedure code in Sessions Case 244 of 2015.

For Petitioners	: M/s.Ganesh and Ganesh
For Respondents	: Mr.M.Mohamed Riyaz Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking for a direction to the Court below to receive the application filed by the petitioners under Section 311 of Cr.P.C, for the purpose of issuing summons to six witnesses who are to be examined on the side of the defence.

2. The petitioners have been arrayed as A1 to A3 and they are facing trial before the Court below for an offence under Section 147,148, 307 r/w 149 I.P.C. The prosecution has examined all the witnesses and they have also been cross-examined and questioning under Section 313 Cr.P.C is also completed. The defence has examined three witnesses namely DW1 to DW3. The defence wanted to examine six more witnesses and therefore, an application was filed before the Court below seeking for issuing summons to the six witnesses to be examined on the side of the defence.

3.The learned counsel for the petitioners would submit that the Court below is not even receiving the application filed by the petitioners and therefore, the petitioners are being denied a fair trial in this case. The learned counsel also brought to the notice of this Court the fact that the

Court below had posted the case on 03.01.2019 for further defence witnesses and this application was filed by the petitioners but however, the same was not entertained by the Court below and the Court below has proceeded to pass an order on 05.01.2019 closing the defence side evidence. The learned counsel would further submit that the petitioners were not trying to drag on the proceedings and the petitioners were only trying to defend their case effectively by cross examining all the witnesses.

4. The learned Additional Public Prosecutor on instructions would submit that the trial in this case has been pending for more than three years and therefore, the Court below has proceeded to hear the case on a day to day basis. The Additional Public Prosecutor further submitted that all the witnesses are in and around Chennai and therefore, the petitioners should have brought all these witnesses on the same day before the Court and examined them as defence side witnesses and without doing so, the petitioners are dragging on the proceedings by filing an application under Section 311 of Cr.P.C.

5. This Court has carefully considered the submission made on either side and also perused the materials placed on record.

6. It is seen from the records that the prosecution has completed examination of witnesses and questioning under Section 313 is also over and the defence has already examined three witnesses DW1 to DW3. The defence wanted to examine Six more witnesses. The application has been filed before the Court below under section 311 of Cr.P.C for issuing summons to Six witnesses and the same has not been entertained.

7. This Court is of the considered view that a fair opportunity must be given to the petitioners to defend their case and at the same time, the proceedings must not drag endlessly in the guise of examining one witness after another on the side of the defence. Therefore, this Court deems it fit to grant an opportunity to the petitioners to examine the witnesses on the side of the defence and at the same time, to fix a time frame for the completion of the entire proceedings.

8. In view of the above, the Court below is directed to entertain the petition filed by the petitioners under Section 311 of Cr.P.C and to immediately issue summons to the list of witnesses shown in the petition. These witnesses shall be cross examined on the same day they are examined

in Chief. The Court below shall complete the entire proceedings within a period of three months from the date of receipt of a copy of this order. This Criminal Original Petition is accordingly disposed of. Consequently, connected Miscellaneous petition is closed.

08.01.2019

speaking/non-speaking order

Note: Issue Order Copy on 10.01.2019

Index : Yes / No

Internet : Yes / No

rri/rka

To

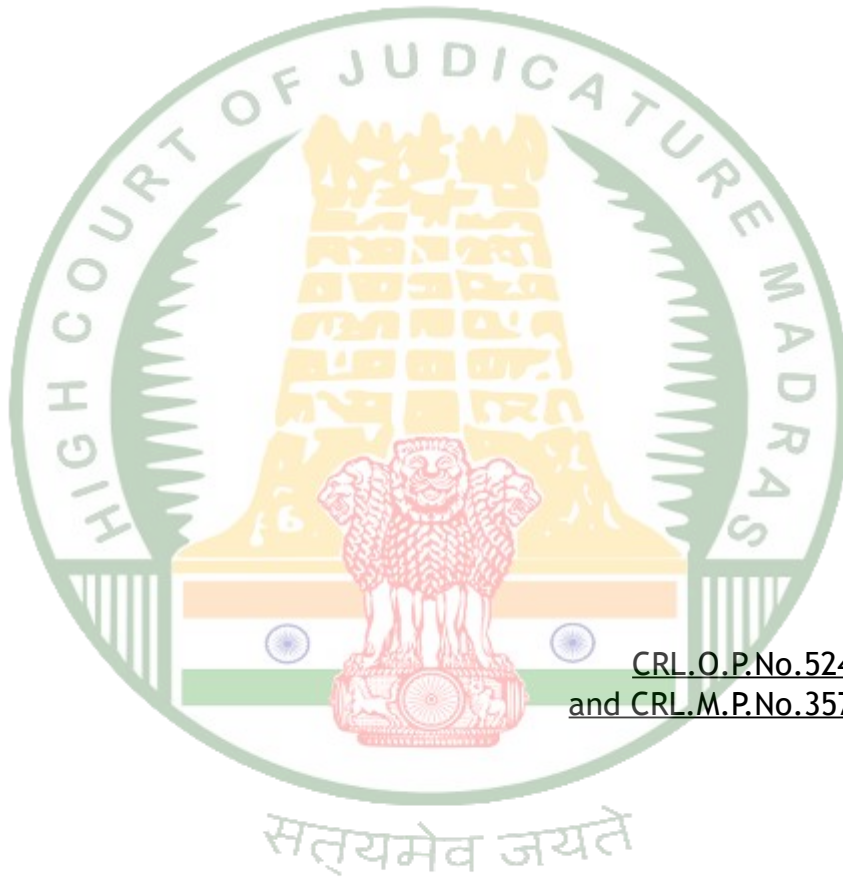
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2. The Public Prosecutor,
High Court, Madras.

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N.ANAND VENKATESH,J.

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