

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No. 3192 of 2019

Amulu

... Petitioner

Vs.

State rep by

The Inspector of Police,
C-1, Flower Bazaar Police Station,
Chennai.

(Crime No.1546 of 2017)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed in Crl.M.P.No.2328 of 2018 in C.C.No.210 of 2018 dated 30.07.2018 on the file of VIII Metropolitan Magistrate, George Town, Chennai.

For Petitioner : Mr.K.Thenrajan

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

O R D E R

This Criminal Original Petition has been filed challenging the order passed in Crl.M.P.No.2328 of 2018 in C.C.No.210 of 2018 dated 30.07.2018 on the file of the VIII Metropolitan Magistrate, George Town, Chennai, thereby dismissing the petition filed under Section 311 of Cr.P.C. to recall P.Ws.1 to 3 for cross examination.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent.

3. It is seen that the petitioner is a sole accused in C.C.No.210 of 2018 on the file of the VIII Metropolitan Magistrate, George Town, Chennai. The learned Magistrate has taken cognizance in C.C.No.210 of 2018 against the petitioner for the offence under Section 9(II) r/w 7 of TNPS Act and Sections 353, 506(ii) of IPC on the file of the respondent police. It is also seen that P.Ws.1 to 3 were examined on

19.03.2018 and 17.04.2018 respectively and also marked as P.Ws.1 to 3. The petitioner failed to cross examine the witnesses of P.Ws.1 to 3 on the day himself.

4. This Court is of the considered view that one last chance can be given to the petitioner in order to recall and cross examine PWs.1 to 3.

5. Therefore, this petition is allowed and the order passed by the Court below in CrI.M.P.No. 2328 of 2018 in C.C.No.210 of 2018 dated 30.07.2018 is hereby set aside. The Court below is directed to issue summons to PWs.1 to 3 to appear before the Court below for cross examination on the next hearing date. On that day when PWs.1 to 3 appears before the Court for giving evidence, the learned Counsel for the petitioner will have to cross examine those witnesses. If for any reason the petitioner fails to cross examine PWs.1 to 3 on the day when they appear, the petitioner shall forfeit his right to recall those witnesses in future. Further, the petitioner is directed to pay the cost for hearing to PWs.1 to 3. Hence, the petitioner shall cross examine on the day the PWs.1 to 3 appears, failing which, the learned Judge is directed to proceed the trial in accordance with law.

Sd/-

Assistant Registrar (J)

//True Copy//

Sub Assistant Registrar

lpp/jas

To

1.The VIIIth Metropolitan Magistrates,
George Town, Chennai.

2.The Inspector of Police,
C-1, Flower Bazaar Police Station,
Chennai.

3.The Public Prosecutor,
High Court, Madras.

+lcc to Mr. K.Thenrajan, Advocate, S.R.No. 11304

CrI.O.P.No. 3192 of 2019

GN(27/03/2019)