

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2019

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.2433 of 2019

J.Kulasekar

... Petitioner/Accused

.Vs.

The Wildlife Inspector,
Wildlife Crime Control Bureau
Government of India,
Ministry of Environment,
Forests & Climate Change,
C-2 A, Rajaji Bhavan,
Besant Nagar,
Chennai-600 090.

... Respondents/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for records and set aside the order passed by the learned Judicial Magistrate Alandur, Chennai in Crl.M.P.No.5889 of 2018 dated 23.11.2018 in C.C.No.496 of 2016 and permit the petitioner to re-call PW.3 Shanthimuthusamy Pillai for further cross-examination.

For Petitioner : Mr.K.R.Ramesh Kumar

O R D E R

This Criminal Original Petition has been filed challenging the order passed by the Court below partly dismissing the petition filed by the petitioner Under Section 311 Cr.P.C.

2. The petitioner is facing trial before the Court below for the offence under Sections 51 r/w 39, 40, 44, 48-A and 49-B of Wildlife (Protection) Act 1972. The prosecution had examined 5 witnesses and they were also cross examined by the petitioner. However, PW.6 who was examined in chief was not cross-examined by the petitioner. Therefore, the petitioner filed a petition before the Court below for recall of PW.1 to PW.6 for cross examination. The Court below dismissed the petition insofar as the PW.1 to PW.5 are concerned and allowed the petition insofar as the PW.6 is concerned.

3.The learned counsel for the petitioner submitted that the petitioner will confine his relief to recall and further cross

examination of PW.3 alone. The Court below has dismissed the petition insofar as PW.1 to PW.5 are concerned only on the ground that they have already been cross examined and the petitioner is attempting to drag on the proceedings.

4. In the facts and circumstances of the case, this Court is inclined to give one last opportunity to the petitioner to recall and further cross examine PW.3. The order passed by the Court below in CMP No.5889 of 2018 dated 23.11.2018 is set aside to that extent. Insofar as PW.1, PW.2, PW.4 and PW.5 are concerned, the order of the Court below is confirmed.

5. The Court below is directed to issue summons to PW.3 and fix a date for cross examination. On the date of appearance of PW.3, the petitioner shall cross examine the witness on the same day. If for any reason the petitioner fails to cross examine PW.3 on the day of her appearance, the petitioner shall forfeit his right to recall in future. The petitioner shall pay a cost of Rs.1000/- to PW.3 on the day of her appearance.

6. This Criminal Original Petition is accordingly allowed and the Court below is directed to complete the proceedings within a period of three months from the date of receipt of copy of this Order.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mpa/rpl

To

1. The Judicial Magistrate,
Alandur, Chennai.

2. The Wildlife Inspector,
Wildlife Crime Control Bureau,
Government of India,
Ministry of Environment, Forests & Climate Change,
C-2 A, Rajaji Bhavan,
Besant Nagar, Chennai-600 090.

+1cc to Mr.K.R.RAMESH KUMAR, Advocate, S.R.No.7837

Cr1.O.P.No.2433 of 2019

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kak(26/02/2019)