

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2019

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.6102 of 2019

and

Crl.M.P.No.3404 of 2019

Padmanaban

... Accused/Petitioner

Vs

The SHO and Special Higher Officer and
The Inspector of Police,
Vigilance and Anti Corruption,
Villupuram District.
(Crime No.9 of 2011)

... Complainant/Respondent

Prayer: This Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for records in C.M.P.No.244 of 2018 in Special Case No.20 of 2014, dated 28.01.2019, on the file of the Special Court for Prevention of Corruption Cases, Villupuram and thereby set aside the same and thereby allow the Criminal Original Petition.

For Petitioner : Mr.N.Suresh

For Respondent : Mr.K.Prabakar,
Additional Public Prosecutor

O R D E R

This petition has been filed against the order passed by the learned Special Judge for Prevention of Corruption Act, Villupuram, in C.M.P.No.244 of 2018 in Special Case No.20 of 2014, dated 28.01.2019, dismissing the petition filed under Section 311 Cr.P.C to recall P.W.1, the Sanctioning Authority and P.W.7, the Trap Laying Officer for further cross examination.

2. The learned Counsel for the petitioner would submit that though the petition has been filed seeking to recall P.W.1 as well as P.W.7, he is now restricting his claim only in respect of recalling P.W.7. He would further submit that the

petitioner to recall had been filed to elicit answer from P.W.7 with regard to the date and time of sending intimation to the Higher Officials of P.W.3, Muralidaran and one Palaniraja, who have been called to accompany P.W.2 to be witnesses during the Trap proceedings. He would further submit that he would limit his examination only to that aspect and he would not traverse beyond that question and that P.W.7 is an official witness and no prejudice would be caused to the respondent.

4. The learned Additional Public Prosecutor would submit that the witness P.W.7 was examined in chief on 24.07.2018, and he was also cross examined on the same day. Thereafter, on petition being filed by the petitioner to recall the said witnesses he had been recalled on 28.11.2018 for further cross examination. He would submit that petitioner cannot be allowed to file petitions again and again for recalling the witness. He would also submit that the learned Judge had categorically recorded the relevant portions of the chief examination as well as the portion of cross examination of P.W.1 and stated that the petition to recall cannot be maintained and had rightly dismissed the petition to recall and he would oppose the present petition.

5. At this juncture, the learned counsel for the petitioner would submit that he would restrict his examination with regard to one aspect; that is with regard to the time and date when the intimation has been sent to the respective higher officials of P.W.3. Muralidaran and yet another witness Palaniraja, who have been called by the Trap Laying Officer to accompany P.W.2 as witnesses during the Trap and would submit that the petitioner is ready to pay the necessary cost to the witness and that the petitioner undertakes to examine the witness on the same day of his appearance before the trial Court.

6. The learned Additional Public Prosecutor would submit that the respondent would be able to produce the witness P.W.7, before the Court below on any day to be fixed by the trial Judge.

7. I have gone through the order passed by the Special Judge, and I do not find any infirmity in the order. However, taking into consideration, the submission of the counsel, that he would not traverse beyond one question, that too only with regard to the date and time of sending intimation to the higher officials for calling P.W.3 and one Palaniraja to be witnesses to the trap proceedings, I am of the opinion that one opportunity may be afforded to him and thereby this Court is inclined to pass the following order:

(i) The trial Judge shall fix the date for appearance of the witness P.W.7, and the petitioner shall cross examine him on the same day.

(ii) Further, the petitioner shall also pay the amount of

Rs.1,000/- towards cost to the witness for his appearance on that day. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

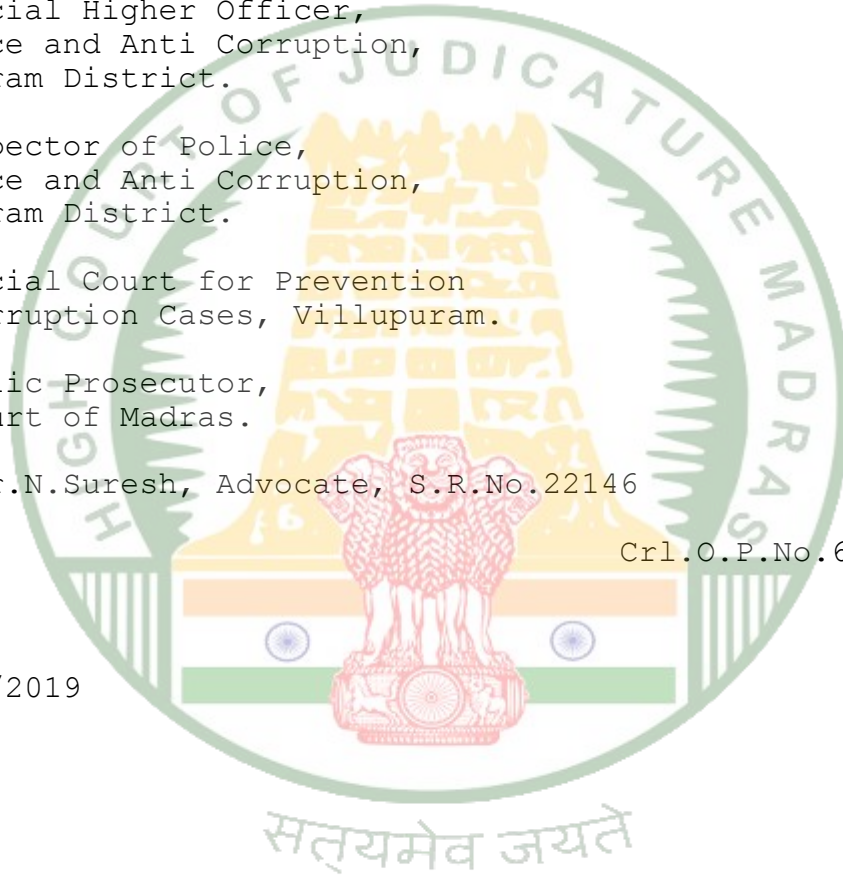
- 1.The Special Higher Officer,
Vigilance and Anti Corruption,
Villupuram District.
- 2.The Inspector of Police,
Vigilance and Anti Corruption,
Villupuram District.
- 3.The Special Court for Prevention
of Corruption Cases, Villupuram.
- 4.The Public Prosecutor,
High Court of Madras.

+1cc to Mr.N.Suresh, Advocate, S.R.No.22146

Crl.O.P.No.6102 of 2019

NRJK (CO)

rrs 08/03/2019



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