

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.3980 of 2019
and
Crl.M.P.Nos.2450 & 2453 of 2019

K.Ganesan

...Petitioner

Vs.

State Rep. by
The Inspector of Police
Central Crime Branch
Chennai 600 008
Cr.No.948 of 2007

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the entire records in Crl.M.P.No.5130 of 2018 in C.C.No.68 of 2007 on the file of the learned Metropolitan Magistrate for CCB & CBCID Egmore, Chennai-8 and set aside the order dated 23.01.2019 as illegal.

For Petitioner : Mr.R.Ganesh Babu

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

ORDER

This Criminal Original Petition has been filed under Section 482 Cr.P.C., to call for the entire records in Crl.M.P.No.5130 of 2018 in C.C.No.68 of 2007 on the file of the learned Metropolitan Magistrate for CCB & CBCID Egmore, Chennai-8 and set aside the dismissal order dated 23.01.2019 filed under Section 311 of Cr.P.C.

2.The learned counsel for the petitioner would submit that the case has been taken cognizance in C.C.No.68 of 2007 as against the petitioner for the offences under Section 420, 465, 467, 471 r/w 465 IPC. Though PW1 to PW5 were examined on

29.01.2010, 13.09.2012, 03.03.2015, 05.12.2015 and 24.07.2017, they were not cross examined by the petitioner due to the reason of pendency of departmental enquiry as against the petitioner. Accordingly prays for one more opportunity to cross examine PW1 to PW5.

3.The learned Additional Public Prosecutor would submit that the case has been registered as early as in the year 2001 and the final report was filed in the year 2007. The first witness was examined some 8 years back during 2010. Other witnesses were examined in the 2017. The petitioner filed a petition to cross examine PW1 to PW5 at the end of Trial only to protract the proceedings, accordingly, vehemently opposed for allowing this petition and prays for dismissal.

4.Heard both sides.

5.It is seen that the case has been registered in the year 2001 and thereafter filed a final report after seven years i.e. in the year 2007. The prosecution witnesses PW1 to PW5 have been examined till 24.07.2017. The petitioner could not cross examine the prosecution witnesses PW1 to PW5 for the reasons that he was facing the departmental proceedings.

6.Considering the facts and circumstances of the case, this Court is of the opinion that the petitioner may be given one more opportunity to cross examine the prosecution witnesses PW1 to PW5. Accordingly, this petition is allowed.

7.The order passed in CrI.M.P.No.5130 of 2018 in C.C.No.68 of 2007 on the file of the learned Metropolitan Magistrate for CCB & CBCID Egmore, Chennai-8 is set aside. The petitioner is permitted to cross examine PW1 to PW5 on 20.02.2019 on payment of necessary charges, failing which, the Trial Court is directed to proceed further in accordance with law. Consequently, connected miscellaneous petitions are closed.

kas/vsn

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Inspector of Police
Central Crime Branch
Chennai 600 008
Cr.No.948 of 2007

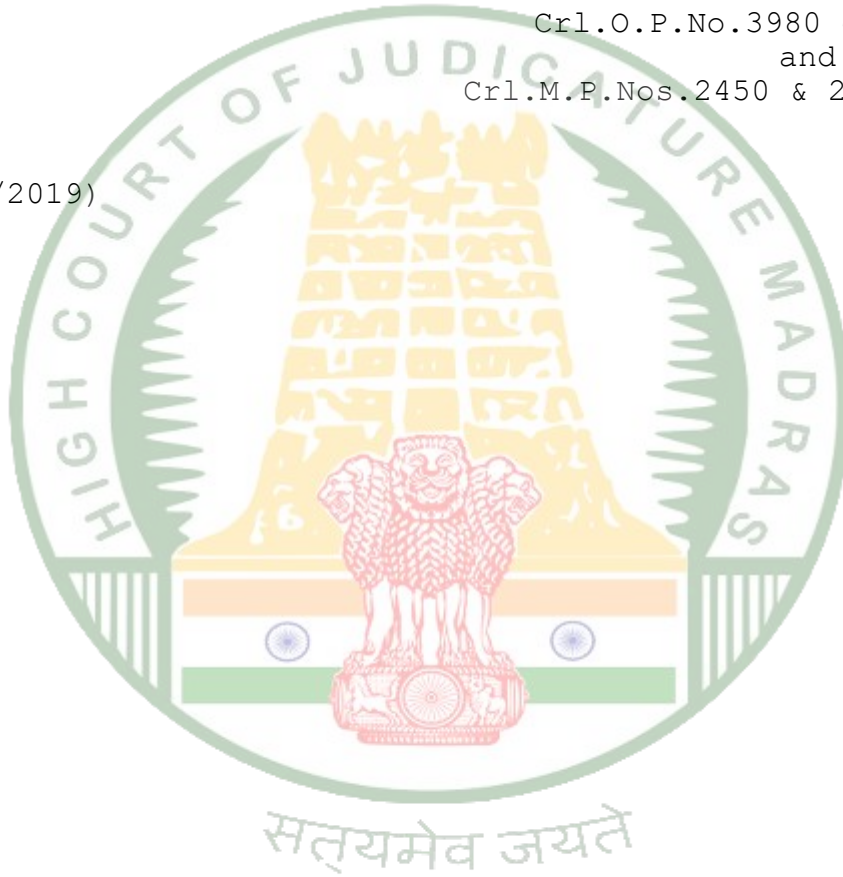
2. The Metropolitan Magistrate
for CCB & CBCID
Egmore, Chennai-8

3. The Public Prosecutor,
High Court of Madras,
Madras.

+1cc to M/s.R.Ganesh Babu, Advocate, S.R.No.13177

CrI.O.P.No.3980 of 2019
and
CrI.M.P.Nos.2450 & 2453 of 2019

GSM(CO)
KAK(15/02/2019)



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