

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 15.02.2019

CORAM:  
THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.Nos.4329 & 4331 of 2019  
and Crl.M.P.Nos.2588 & 2590 of 2019

D. Ramdoss

... Petitioner/Accused No.2  
in both Crl.O.Ps.

Vs.

The State Rep. by  
The Inspector of Police,  
CB-CID, Metro Wing,  
Chennai

... Respondent/Complainant  
in both Crl.O.Ps.

COMMON PRAYER: Criminal Original Petitions filed under Section 482 of Cr.P.C. praying to grant a direction directing the learned trial Judge to receive the 311 petition was filed by this petitioner in the above said unnumbered Crl.M.P. in C.C.No.2689 of 2018 and 1030 of 2018, respectively, on the file of the learned Special Judge for CB-CID cases, at Egmore.

For Petitioner  
in both cases : Mr.A.Ramesh  
Senior Counsel  
For Ms.S.Deepika  
For Respondent  
in both cases : Mr.M.Mohammed Riyaz  
Additional Public Prosecutor.

COMMON ORDER

Both the Criminal Original Petitions have been filed seeking direction to direct the learned trial Judge to receive the recall petition filed under Section 311 of Cr.P.C. in C.C.Nos. 2689 of 2018 and 1030 of 2018, respectively on the file of the learned Special Judge for CB-CID cases, at Egmore.

2. The learned Senior Counsel appearing for the petitioner submitted that there are two accused in this case and the petitioner is arraigned as A2. The case of the prosecution is that the first accused being the officer in the defacto complainant/finance company, without inspecting and verifying the documents of the number of vehicles, recommended the loan amount to the tune of Rs. 2 lakhs to the petitioner/second accused. It is also alleged that the second accused defaulted in repayment of loan and also sold out the vehicles, thereby caused

loss to the defacto complainant company. On the complaint made by the defacto complainant a company case has been registered in Crime No.13 of 1997 for the offences under Sections 406, 420, 477(A) r/w 34 of IPC. Seven charge sheets were laid in the year 2002 and insofar as the petitioner is concerned two charge sheets have been laid in respect of 12 vehicles, before the Additional Chief Metropolitan Magistrate Court, Chennai and both the cases were transferred to the present Court and re-numbered as C.C.Nos.2689 of 2018 & 1030 of 2018. Though the charge sheet filed in the year 2002, the prosecution dragged the proceedings for the past 17 years. The petitioner has attempted to file petition under Section 311 of Cr.P.C., however, the learned Judge refused to receive the petition on file, without number it. He further submitted that under Section 311 of Cr.P.C. the recall petition can file at any stage of inquiry or trial or other proceedings. Therefore, he prays to allow both the petitions.

3. The learned Additional Public Prosecutor appearing for the respondents would submit that now the cases are posted for judgments on 18.02.2019 and at this stage, the petition to recall the P.Ws.2,3 & 4 cannot be considered and hence the learned Judge rightly refused to receive the petition filed under Section 311 of Cr.P.C. Therefore, he sought for dismissal of these petitions.

4. Heard Mr.A.Ramesh, learned Senior Counsel appearing for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the respondent.

5. It is seen that during the year 2011, the petitioner had already filed a petition under Section 311 of Cr.P.C. to recall the witnesses P.Ws. 1 to 7 for cross-examination in CrI.M.P.No.1687 of 2011, before the learned XI Metropolitan Magistrate, Saidape, Chennai and the same was dismissed by an order dated 31.03.2011. It is pertinent to note that the questioning under Section 313 of Cr.P.C. is also over on 25.02.2011. For the pass seven years the petitioner did not take any steps to recall the P.Ws.1 to 7. Now the case is posted for judgment on 18.02.2019. At this stage, the petitioner filed the petitions to recall P.Ws. 2,3 & 4 under Section 311 of Cr.P.C. But the learned trial Judge refused to receive the petition filed by the petitioner.

6. Considering the above facts and circumstance of the case, the trial Court is directed to receive the petition filed by the petitioner under Section 311 of Cr.P.C., in both cases and considered the same on merits and in accordance with law and proceed further.

7. With the above direction, both the Criminal Original Petitions are disposed of. Consequently connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rts

To

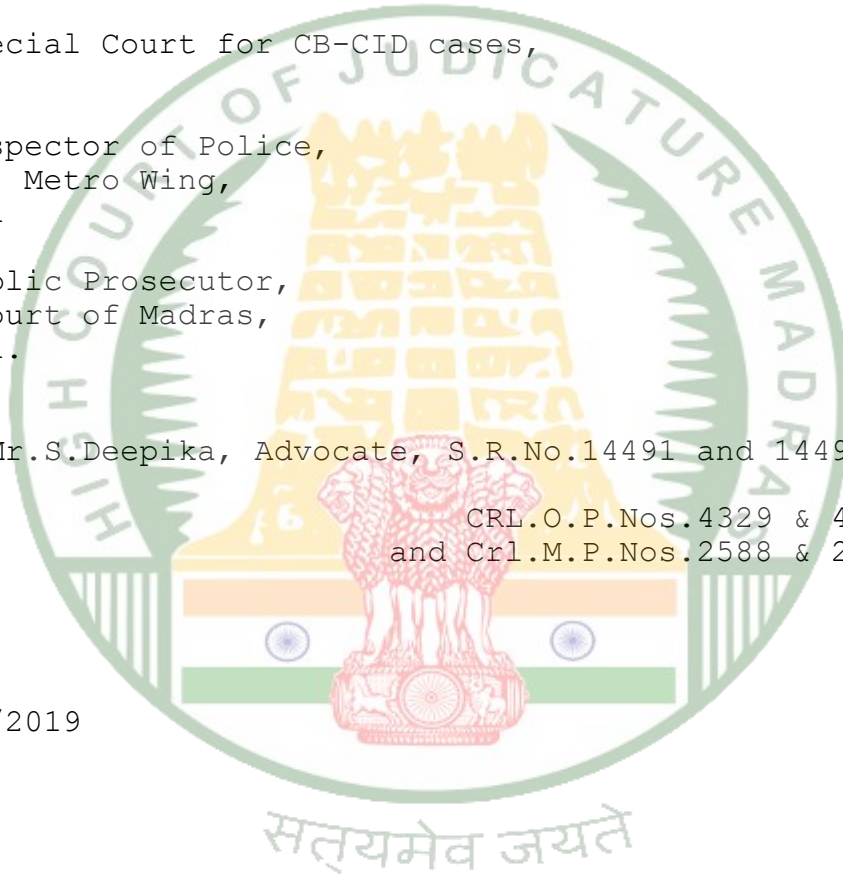
1. The Special Court for CB-CID cases,  
Egmore
2. The Inspector of Police,  
CB-CID, Metro Wing,  
Chennai
3. The Public Prosecutor,  
High Court of Madras,  
Chennai.

+2ccs to Mr.S.Deepika, Advocate, S.R.No.14491 and 14492

CRL.O.P.Nos.4329 & 4331 of 2019  
and CrI.M.P.Nos.2588 & 2590 of 2019

VBA (CO)

rrs 18/02/2019



WEB COPY