

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.6366 of 2019

S.M.Anbumani

.. Petitioner

Vs.

State Represented by
Deputy Superintendent of Police
Vigilance and Anti Corruption
Erode.
Crime No.17/AC/2008/ER

.. Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the Docket order passed in Special Crl.M.P.No.1001 of 2019 in Special C.C.No.12 of 2015 on the file of Chief Judicial Magistrate/Special Judge, Erode dated 13.02.2019.

For Petitioner : Mr.C.E.Pratap

For Respondent : Mr.K.Prabakar
Additional Public Prosecutor

ORDER

The Criminal Original Petition has been filed to set aside the order passed in Crl.M.P.No.1001 of 2019 in Special C.C.No.12 of 2015 on the file of Chief Judicial Magistrate/Special Judge, Erode dated 13.02.2019, dismissing the petition filed under Section 233(3) Cr.P.C., to recall the witnesses P.Ws.7 and 9 for cross examination.

2.The learned counsel for the petitioner would submit that the petitioner after closure of evidences on the side of the prosecution had filed a petition under Section 233(3) Cr.P.C., to recall the witnesses P.Ws.7 and 9 for further cross examination, since examination of these witnesses are essential

for just decision of the case. He would further submit that the learned trial Judge dismissed the petition stating that the Court was not satisfied with regard to the reason for recalling the witnesses and that the petition had been filed at the fag end to avoid advancing arguments. He would also submit that though he had sought for recalling the witnesses P.Ws.7 and 9, he will restrict his claim only in respect of P.W.9, who is a necessary witness for cross examination with regard to the employment details and would submit that in the interest of fair trial and fair opportunity a chance may be granted to the petitioner. He would submit that P.W.9 is a Junior Employment Officer, District Employment Office, Erode, and that no prejudice will be caused to the respondent police by recalling and further cross examining him on the side of the defence.

3.On the earlier occasion, this Court had sought for instructions from the learned Additional Public Prosecutor, whether the respondent would be able to produce P.W.9 for cross examination. The learned Additional Public Prosecutor would submit that they would be able to produce P.W.9 on 22.03.2019 i.e., on the next hearing date, on which the case stands posted for arguments.

4.At this juncture, the learned counsel for the petitioner would submit that the petitioner will undertake to cross examine the witness-P.W.9 on the same day without taking any further adjournments and he will restrict his claim with regard to the employment documents and he will not put any other questions to the witness, other than which are relevant to the employment documents.

5.In view of the same, the learned trial Judge is directed to permit the petitioner to cross examine the witness-P.W.9 on 22.03.2019. It is made clear that the petitioner shall also pay the cost of Rs.1,000/- to the witness on the date of her appearance before the Court for cross examination. After examination of the witness the trial Judge shall post the matter for arguments and conclude the case at the earliest. With these directions, the Criminal Original Petition stands disposed of.

Jer

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Chief Judicial Magistrate/Special Judge,
Erode.
2. The Public Prosecutor
High Court of Madras.
3. The Deputy Superintendent of Police
Vigilance and Anti Corruption
Erode.

+1cc to Mr.C.E.Pratap, Advocate, SR.No.23919

Kak(15/03/2019)

Cr1.O.P.No.6366 of 2019



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