

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2019

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.OP No.7131 of 2019
and
Crl.M.P.No.3940 of 2019

Govindarajan

...Petitioner

vs.

State Represented by
The Inspector of Police,
CCIW-CID,
Thiruvarur District
(Crime No.02 of 2017)

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed in Crl.M.P.No.3399 of 2018 in C.C.No.157 of 2017 dated 03.11.2018 on the file of the District Munsif cum Judicial Magistrate, Nannilam

For Petitioners: Mr. T.Muruganantham

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

ORDER

This petition has been filed challenging the order passed by the Court below dismissing the application filed by the petitioner under Section 311 of Cr.P.C to recall PW1 to PW24 for cross examination.

2. The petitioner is facing trial before the Court below for an offence under Sections, 408, 409, 467, 468, 471 and 477A of IPC. The prosecution had examined 24 witnesses and none of these witnesses were cross examined by the petitioner. The case was at the stage of questioning under Section 313 of Cr.P.C and at that stage, the present application came to be filed to recall all the witnesses for cross examination.

3. When this case came up for hearing during last occasion, this Court expressed its mind stating that all the prosecution witnesses cannot be recalled and the petitioner has

to choose the important witnesses who will have to be cross examined on the side of the petitioner. The learned counsel for the petitioner wants to cross examine PW1, PW2, PW8, PW22, PW23 and PW24. The learned counsel further submitted that one last opportunity may be given to the petitioner to cross examine these witnesses and enable the petitioner to defend himself effectively before the Court below wherein he is facing serious charges.

4. The learned Additional Public Prosecutor submitted that the petitioner chose not to cross examine any of the witnesses inspite of the petitioner being represented by an advocate. When the case was at the stage of questioning under Section 313 of Cr.P.C, the petitioner wanted to recall all the witnesses examined on the side of the prosecution and the entire attempt of the petitioner is only to drag on the proceedings.

5. This Court has carefully considered the submissions made on either side and the materials placed on record.

6. Eventhough this Court does not find any illegality or infirmity in the orders passed by the Court below, this Court wants to afford one last opportunity to the petitioner to recall and cross examine the witnesses chosen by the petitioner. Unless this opportunity is given, the petitioner cannot defend himself effectively in the pending case.

7. In view of the above, the order passed by the Court below in Crl.M.P.No.3399 of 2018 is partly set aside and the Court below shall issue summons for the presence of PW1, PW2, PW8, PW22, PW23 and PW24. These witnesses shall be cross examined on the same day of their appearance and each of these witnesses shall be paid cost of a sum of Rs.1000/- by the petitioner. If for any reason, the petitioner fails to cross examine any of the witnesses, the petitioner shall forfeit his right to recall the witnesses in future.

8. In the result, this Criminal Original Petition is partly allowed and the Court below is directed to complete the proceedings in C.C.No.157 of 2017 within a period of three months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The District Munsif cum Judicial Magistrate,
Nannilam.
2. The Inspector of Police,
CCIW-CID,
Thiruvarur District
(Crime No.02 of 2017)
3. The Public Prosecutor,
High Court of Madras,
Madras.

+1 cc to Mr.T.Muruganantham, Advocate, S.R.No.47275

Crl.O.P. No.7131 of 2019
and
Crl.M.P.No.3940 of 2019

BS(CO)
SSM(13/06/2019)



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