

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 03.07.2019

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.OP No.17206 of 2019

S.Kumar

.. Petitioner

.Vs.

State rep.by:

Inspector of Police,
EOW Kancheepuram Police Station,
Kancheepuram District.

..Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 26.04.2019 made in Crl.M.P.No.3181 of 2019 in C.C.No.09 of 2015 on the file of Chief Judicial Magistrate at Chengalpattu and modify the conditions imposed to the petitioner in Crl.M.P.No.3181 of 2019 in C.C.No.09 of 2015 dated 26.04.2019.

For Petitioner : Mr.L.Ramu

For Respondent : Mr.M.Mohamed Riyaz, APP

ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below dismissing the application filed under Section 311 of Cr.P.C., to recall PW-1 to PW-24 and PW-27 to PW-30 for cross examination.

2. The petitioner along with others is facing trial before the Court below for an offence under Section 120(b), 420, r/w 34, 406, 506(i) IPC & Section 4 r/w 76 of the Chit Fund Act, 1982. The prosecution had examined nearly 30 witnesses and none of these witnesses were cross examined on the side of the petitioner.

3. The petitioner along with the other accused persons filed a petition to recall almost all the witnesses for cross examination and the same was dismissed by the Court below on the ground that the petitioner was given sufficient opportunity and in spite of the same none of the witnesses were cross examined. The Court below also found that the petitioner along with the other accused persons is intentionally dragging on the proceedings which commenced in the year 2015.

4. The learned counsel for the petitioner submitted that the petitioner and the other accused persons do not want to recall all the witnesses and they will confine themselves only to three witnesses namely; PW-1 to PW-3 and these witnesses can be recalled for cross examination. The learned counsel further submitted that the petitioner will not drag on the proceedings and that a time limit can be fixed for the completion of the proceedings.

5. Heard the learned Additional Public Prosecutor appearing on behalf of the respondent Police.

6. This Court does not find any illegality or infirmity in the order passed by the Court below. The Court below rightly dismissed the application filed by the petitioner and others wherein the accused persons had sought for recalling almost 30 witnesses for cross examination.

7. However, in view of the specific stand taken by the learned counsel for the petitioner that it is enough if PW-1 to PW-3 are recalled for cross examination, this Court deems it fit to give one last opportunity to the accused persons to cross examine these three witnesses.

8. The order passed by the Court below in CrI.MP.No.3181 of 2019, dated 26.04.2019, is partly set aside and the Court below is directed to issue summons to PW-1 to PW-3 and fix a date for cross examination. These three witnesses will have to be cross examined on the same day they appear before the Court below and the cross examination shall be completed on the very same day. If for any reason the petitioner and the other accused persons fail to cross examine PW-1 to PW-3 on the date of their appearance, they shall forfeit their right to recall these witnesses in future. The petitioner is directed to pay a cost of Rs.1,000/- to each of the witnesses namely; PW-1 to PW-3 on the date of their appearance. It is also made clear that all the other witnesses examined on the side of the prosecution shall be cross examined on the same day by the accused persons.

In the result, this Criminal Original Petition is partly allowed and the Court below is directed to complete the proceedings in CC.No.9 of 2015, within a period of four months from the date of receipt of copy of this order.

Sd/-

Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

KP

To

1. Inspector of Police,
EOW Kancheepuram Police Station,
Kancheepuram District.

2. The Chief Judicial Magistrate,
Chief Judicial Magistrate's Court,
Chengalpattu.

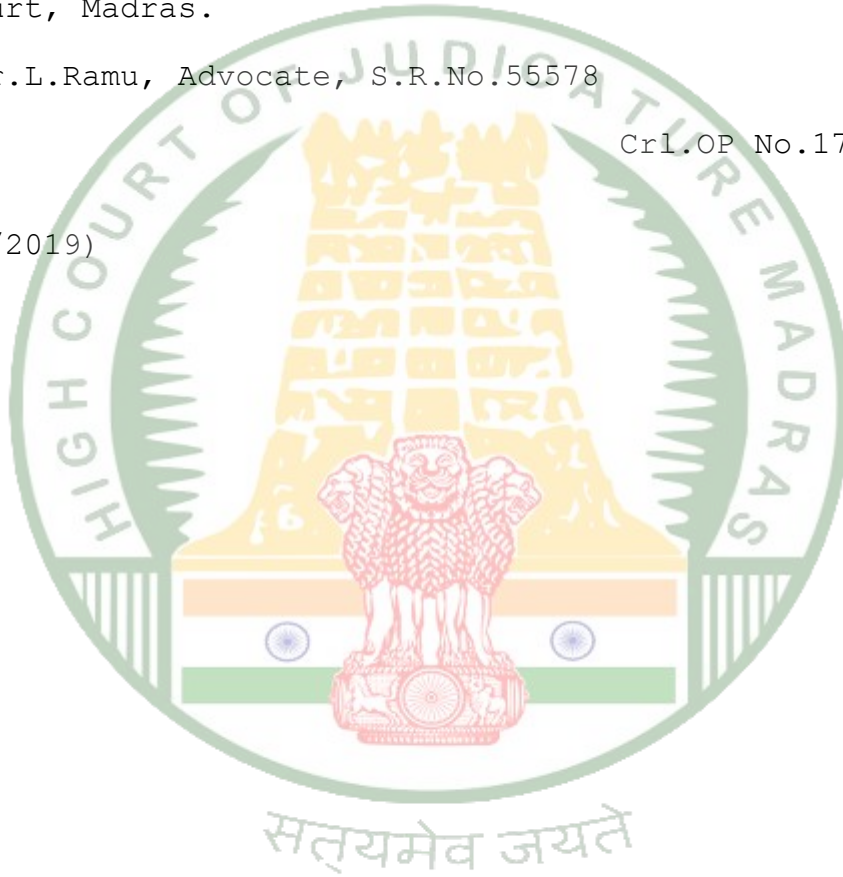
3. Public Prosecutor,
High Court, Madras.

+1cc to Mr.L.Ramu, Advocate, S.R.No.55578

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RGN(CO)

RRS (25/07/2019)



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