

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.15477 of 2019

Vikram

...Petitioner

Vs.

The Deputy Superintendent of Police,
NIB CID, Vellore,
Vellore District.
(Crime No.75 of 2017)

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the order passed by the learned Special Judge for EC Act Cases, Salem, Salem District in Crl.M.P.No.207 of 2019 in C.C.No.8 of 2018.

For Petitioner : Mr. E.Kannadasan

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

ORDER

This petition has been filed against the order passed by the Court below dismissing the application filed under Section 311 of Cr.P.C seeking to recall PW1 to PW4 for the purpose of cross examination.

2. The petitioner is facing trial before the Court below for the offence under Section 8(c) r/w 20(b) (ii) (B) (c), 25 of NDPS Act. The prosecution had examined PW1 to PW4 and none of these witnesses were cross examined. In the meantime, the petitioner filed a petition in Crl.O.P.No.7910 of 2018 before this Court seeking to quash the proceedings. This Court was not inclined to grant any interim order. The petitioner was repeatedly seeking for adjournment and ultimately, filed an application before the Court below under Section 311 of Cr.P.C to recall PW1 to 4 for cross examination.

3. The Court below took into consideration the fact that the petitioner, on the one hand, wanted to recall PW1 to 4 for cross examination. On the other hand, the petitioner was also taking

a stand that the cross examination of PW1 to PW4 will have to wait till the disposal of the CrI.O.P.No.7910 of 2018. The Court below, therefore took into consideration the conduct of the petitioner and proceeded to dismiss the petition.

4. The learned counsel for the petitioner submitted that the petitioner is now prepared to cross examine the witnesses and go ahead with the trial.

5. Taking into consideration the specific stand taken by the learned counsel for the petitioner, this Court deems it fit to give one last opportunity to the petitioner to recall and cross examine PW1 to PW4. The petitioner is facing serious charges under NDPS Act and therefore, he has to be given a fair opportunity to defend himself and to ensure a fair trial.

6. The order passed by the Court below in CrI.M.P.No.207 of 2019 dated 03.06.2019 is hereby set aside. The Court below is directed to issue summons to PW1 to 4 and fix a date for their cross examination. On the date of their appearance, the learned counsel for the petitioner shall cross examine and finish the cross examination on the same day. If for any reasons, the petitioner fails to cross examine any of the witnesses on the date of their appearance, the petitioner shall forfeit his right to recall those witnesses in future. The petitioner shall pay a cost of Rs.500/- to each of the witnesses (PW1 to PW4) on the date of their appearance. It is also made clear that the petitioner shall cross examine all the other witnesses on the same day, they are examined in chief.

7. In the result, this Criminal Original Petition is allowed and the Court below is directed to complete the proceedings in C.C.No.8 of 2018 within a period of four months from the date of receipt of copy of this order.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

uma

To

1. The Special Judge for EC Act Cases,
Salem, Salem District.
2. The Deputy Superintendent of Police,
NIB CID, Vellore, Vellore District.

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

+1 cc to Mr.E.Kannadasan, Advocate, Sr.No. 49703

CRL.O.P.No.15477 of 2019

CSL/27.06.2019



WEB COPY