

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No.20639 of 2019

Periyasamy

...Petitioner

-Vs-

State Rep by
The Deputy Superintendent of Police,
NIB CID, Salem.

...Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to set aside the order dated 07.06.2019 in Cr.M.P.No.210 of 2019 in C.C.No.37 of 2017 in learned Special Judge for EC Act cases, Salem/III Additional District Judge, Salem.

For Petitioner : Mr.T.Panchatsaram

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 by the petitioner to recall PW1 to PW3 for cross-examination.

2. The petitioner is facing trial before the Court below for an offence under Section 8(c) r/w 20(b)(ii)(c) of NDPS Act. The prosecution had examined PW1 on 13.03.2019 and PW2 & PW3 on 18.03.2019 and none of these witnesses were cross-examined by the petitioner. After two months, the petitioner filed an application under Section 311 of Cr.P.C. to recall these witnesses for cross-examination. The Court below has dismissed the petition on the ground that in spite of sufficient opportunities given to the petitioner, the petitioner chose not to cross-examine these witnesses. The Court below also gave a finding that, already time has been fixed by this Court, based on the petition filed by the petitioner for completion of the proceedings and therefore the present application has been filed by the petitioner only to drag on with the proceedings.

3. Heard, the learned counsel for the petitioner and the

learned Additional Public Prosecutor appearing on behalf of the respondent police.

4. Taking into consideration the facts and circumstances of the case and also of the fact that the petitioner is facing very serious charges under the NDPS Act, this Court deems it fit to give one last opportunity to the petitioner to recall and cross-examine PW1 to PW3.

5. The order passed by the Court below in C.M.P.No.210 of 2019 is hereby set aside. The Court below is directed to issue summons to PW1 to PW3 and fix a date for cross-examination. On the date of their appearance, the petitioner shall cross-examine all the three witnesses and complete the cross-examination on the same day. If for any reasons, the petitioner fails to cross-examine these witnesses on the date of their appearance, the petitioner shall forfeit his right to recall the witnesses in future. The petitioner is directed to pay a cost of Rs.1500/- towards cost to each of the witnesses on the date of their appearance.

6. In the result, this Criminal Original Petition is allowed and the time granted by this Court for the completion of the proceedings in CrI.O.P.No.29351 of 2018, is extended for a further period of four months from the date of receipt of a copy of this order.

ssr

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Special Judge for EC Act cases, Salem / III
Additional District Judge, Salem

2. The Deputy Superintendent of Police,
NIB CID, Salem.

Copy to:-

The Public Prosecutor,
Madras High Court, Chennai-108.

+1cc to Mr.G.Punniyakotti, Advocate, SR.No.66004/19

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Kak(05/08/2019)