

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2019

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.OP No.21147 of 2019
and
Crl.MP.No.10911 of 2019

K.Ganesan

...Petitioner

.Vs.

State Rep.by
The Sub Inspector of Police,
Central Crime Branch,
Chennai 600 008.
Crime No.948 of 2001

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records in Crl.M.P.No.1626 of 2019, in CC.No.68 of 2007, on the file of learned Metropolitan Magistrate for CCB and CBCID Egmore, Chennai-8, the its order dated 11.07.2019.

For Petitioner : Mr.R.Ganesh Babu
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 by the petitioner under Section 91 of Cr.P.C., to direct the de facto complainant to produce certain documents.

2.The petitioner is facing trial before the Court below for an offence under Section 465, 468 r/w 417 & 420 of IPC. It is seen from records that PW-1 was examined in the year 2010, PW-2 was examined in the year 2012, PW-3 was examined in the year 2015, PW-4 was examined in the year 2015 and PW-5 was examined in the year 2017. None of these witnesses were cross examined by the petitioner. Ultimately, the petitioner has filed a petition to recall the witnesses for cross examination. The same was dismissed by the Court below. However, this Court in Crl.O.P.No.3980 of 2019, by an order dated 14.02.2019, in order to afford an opportunity to the petitioner, permitted all the five witnesses to be recalled for cross examination.

3. During the course of cross examining PW-2, the petitioner filed the present petition under Section 91 of Cr.P.C., to direct

the de facto complainant to produce five documents.

4. The Court below dismissed the petition on the ground that the documents in question are public documents, and therefore a certified copy of the same can always be marked at the relevant point of time. The Court below also dismissed the petition on the ground that the petitioner has been dragging on the proceedings for the last 12 years, and the present petition is one more attempt made by the petitioner to drag on the proceedings.

5. The learned counsel for the petitioner submitted that the prosecution had suppressed certain material documents and that PW-2 had given a certificate after verifying those documents and later retracted her statement. The said documents which were certified by PW-2 were not marked on the side of the prosecution. These documents are important for the petitioner to establish his defence before the Court below.

6. The learned Additional Public Prosecutor appearing on behalf of the respondent Police submitted that the documents in question are public documents and the petitioner himself can produce those documents as evidence. It is not necessary to summon those documents at this stage, more particularly due to the fact that the petitioner had taken nearly 9 years to cross examine the witnesses. The learned counsel submitted that there is no ground to interfere with the order passed by the Court below.

7. This Court has carefully considered the submissions made on either side and the materials available on record.

8. This Court does not find any illegality or infirmity in the order passed by the Court below.

9. The petitioner was aware about the non availability of these documents right from the beginning. However, he chose to raise it for the first time in the year 2019, at the time of cross examination of PW-2. That itself shows that the petitioner wants to drag on the proceedings further. Going by the nature of documents sought to be produced, these are all public documents and it will always be open to the petitioner to mark those documents as defence documents at the time of the defence evidence. For the present, the petitioner has to proceed further to cross examine the witnesses who have already been examined in chief by the prosecution. If there are any

other documents that are relied upon by the petitioner, it can be done only at the time of defence side evidence. Except giving this opportunity, this Court is not inclined to interfere with the order passed by the Court below.

This Criminal Original Petition is disposed of accordingly, and the Court below is directed to complete the proceedings in C.C No.68 of 2007, within a period of three months from the date of receipt of copy of the order. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

KP

To

1. Metropolitan Magistrate for
CCB and CBCID Egmore,
Chennai-8.
 2. The Sub Inspector of Police,
Central Crime Branch,
Chennai 600 008.
 3. The Public Prosecutor,
High Court, Madras
- +1 cc to M/s.R.Ganesh Babu, Advocate, S.R.No.66896

Cr1.OP No.21147 of 2019

BP(CO)
SSM(19/09/2019)

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