

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

Cr1.O.P.No.21963 of 2019
and
Cr1.M.P.Nos.11378 &11379 of 2019

1.Sureshkumar

2.S.Sridevi

... Petitioners

Versus

State Rep by
The Inspector of Police,
DCB, Kancheepuram.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records in C.C.No.397 of 2013 pending on the file of the learned Judicial Magistrate No.II, Chengalpattu and set aside the order dated 19.07.2019 passed in C.M.P.No.6391 of 2019.

For Petitioners: Mr.S.Ashok Kumar

For Respondent : Mr.C.Iyyapparaj
Additional Public Prosecutor

O R D E R

The petitioners' has filed petition under Section 311 of Cr.P.C., to cross examine P.W.19, which was rejected predominately on the ground that the prosecution had examined the witnesses long back and sufficient time was taken till the questioning under Section 313 Cr.P.C. There is absolutely no explanation from the petitioner as to why the petitioner has not chosen to file an application under Section 311 Cr.P.C., earlier.

2.The learned counsel for the petitioner would submit that there was a civil dispute pending between the complainant and petitioner and they were waiting for the outcome of the civil dispute, owing to which, they could not cross examine the witnesses in time. The learned counsel for the petitioner also submitted that if an opportunity is given them to cross examine the witnesses P.W.1 to P.W.6, P.W.12 to P.W.14 and P.W.17 to

P.W.19, they would endeavour to complete the same as expeditiously as possible.

3.Since the issue is said to revolve around the civil dispute, this Court is inclined to take a lenient view the submissions made by the learned counsel for the petitioner and extend an opportunity to the petitioner to cross examine these witnesses.

4.This Court wishes to place on record that it does not find any incriminating finding rendered by the Court below and that the Court below was justified in rejecting the petitioner's application. The opportunity to the petitioner to cross examine these witnesses is only by taking a lenient view.

5.In the light of the above observations, the petitioner is permitted to make a fresh application under Section 311 Cr.P.C., before the learned Judicial Magistrate No.2, Chengalpet seeking for cross examination of P.W.1 to P.W.6, P.W.12 to P.W.14 and P.W.17 to P.W.19, and on such receipt of the said application, the learned Judicial Magistrate No.2, Chengalpet shall permit the petitioner to cross examine these witnesses and complete the same within a period of two weeks from the date of receipt of filing of such application. The petitioner shall file such an application under Section 311 Cr.P.C., within a period of one week from the date of receipt of a copy of this order.

6.The cross examination of the aforesaid witnesses shall be completed within a period of two weeks from the date of such application to be made by the petitioner. The petitioner shall also bear the expenses for summoning these witnesses, which amount shall be determined by the Court below, while passing an order on the petitioner's application under Section 311 Cr.P.C.

7.With the above observations and directions, this Criminal Original Petition stands disposed of. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

sbn/klt

To

1.The Judicial Magistrate No.II,
Chengalpattu.

2.The Inspector of Police,
DCB, Kancheepuram.

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

4.The Chief Judicial Magistrate,
Kancheepuram.

+1cc to Mr.S.Ashok Kumar, Advocate SR.81818

Crl.O.P.No.21963 of 2019

and

Crl.M.P.Nos.11378 &11379 of 2019

BR(CO)

CB(07/11/2019)