

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

Crl.O.P.No.23886 of 2019

Syed Ibrahim

..Petitioner/Accused No.1

Vs

The State Rep. by
The Inspector of Police,
B-1, North Beach Police Station,
Chennai - 600001.
(Crime No.526 of 2006)

..Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to set aside the impugned order Crl.M.P.No.11745 of 2019 in SC.No.456 of 2007 order dated 22.07.2019 and allow the petition filed by the petitioner under Section 311 of Crl.M.P.No.11745 of 2019 in SC.No.456 of 2007 pending on the file of the VII Additional City Civil Court at Chennai.

For Petitioner : Dr.S.Manoharan

For Respondent : Mr.C.Iyyapparaj, APP

O R D E R

This petition is filed to set aside the impugned order Crl.M.P.No.11745 of 2019 in SC.No.456 of 2007 order dated 22.07.2019 and allow the petition filed by the petitioner under Section 311 of Crl.M.P.No.11745 of 2019 in SC.No.456 of 2007 pending on the file of the VII Additional City Civil Court at Chennai.

2. It is not in dispute that the earlier cross examination of the witnesses by the 1st accused was done prior to the date when the offences came to be altered under Section 216 of the Cr.P.C. Section 217 Cr.P.C. provides that, whenever a charge is altered, the accused shall be permitted to recall and re-examine the witnesses and the provision is mandatory in nature. As such, the reasons assigned by the Court below, rejecting the petitioner's application under Section 311 Cr.P.C, may not be proper.

3. Though 25 witnesses have been produced before the Trial Court, the learned counsel for the petitioner would submit that he would be satisfied if permission is granted to cross examine P.W.1 and P.W.21 alone and that he undertakes not to seek for cross examination of other witnesses at a later stage.

4. Recording the submission made by the learned counsel for the petitioner, the order dated 22.07.2019, is set aside. Consequently, the petitioner is permitted to cross examine P.W.1 & P.W.21 in the proceedings in SC.No.456 of 2007, on or before 20.09.2019. The Trial Court, on production of copy of this order, shall facilitate for such cross examination, by fixing the date of hearing.

5. The Criminal Original Petition stands ordered accordingly.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The VII Additional City Civil Court,
Chennai.
2. The Inspector of Police,
B-1, North Beach Police Station,
Chennai - 600001.
3. The Additional Public Prosecutor,
High Court of Madras.

+1 cc to Mr.S.Manohar, Advocate, S.R.No.78324

CrI.O.P.No.23886 of 2019

PP(CO)
SSM(13/09/2019)

WEB COPY