

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.24823 of 2019

Ganesan

...Petitioner/Accused

Vs.

Inspector of Police,
G-1, Vepery Police Station,
Chennai - 12.

....Respondent/ Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the order made in Crl.M.P.No.941 of 2019 in C.C.No.59 of 2018 pending trial before the Principal Special Court, for EC & NDPS Cases at Chennai and allow the petitioner to cross examine the prosecution witness PW1 to PW7.

For Petitioner : M.Karthik

For Respondent : Mr.C.Iyyapparaj
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed seeking to set aside the order made in Crl.M.P.No.941 of 2019 in C.C.No.59 of 2018 pending trial before the Principal Special Court, for EC & NDPS Cases at Chennai and allow the petitioner to cross examine the prosecution witness PW1 to PW7.

2. The petitioner's application filed under Section 311 Cr.P.C. praying to recall the witnesses PW1 to PW7 for the purpose of cross examination has been rejected through the impugned order dated 05.08.2019 passed in Crl.M.P.No.941 of 2019. The learned Special Judge, while rejecting the application, had observed that the powers under Section 311 Cr.P.C. are meant to be used sparingly and only in exceptional circumstances. The learned Special Judge has also indicated that the petitioner herein has filed this application with an intention to drag on the proceedings. Though his earlier application has been filed and rejected on 18.02.2019, the Office had mistakenly taken the present application and numbered it.

3. I do not find any infirmity in the findings of the learned Special Judge on the scope of Section 311. As rightly pointed out by the learned Special Judge, the powers vested under Section 311 are to be used very sparingly and the accused should not be permitted to misuse the powers and drag on the proceedings.

4. Nevertheless, the learned counsel for the petitioner submitted that they have not cross examined these witnesses and in particular the crucial witnesses PW1 and the Investigation Officer, who has been arrayed as PW7.

5. In my view, though it cannot be strictly said that the order of the learned Special Judge is at fault, by taking note of the fact that the petitioner herein has not cross examined these crucial witnesses, the ends of justice could be secured, if 2 out of the 7 witnesses namely PW1 and PW7 are permitted to be cross examined by the petitioner on one particular day.

6. In the light of the above observations, the order dated 05.08.2019 passed in CrI.M.P.No.941 of 2019 is set aside. Consequently, the petitioner herein is permitted to cross examine PW1 and PW7 alone on 01.10.2019 without fail. It is made clear that the cross examination shall be concluded on the same day and that the petitioner herein will not be at liberty to seek for any cross examination of other witnesses subsequently.

7. Accordingly, the Criminal Original Petition stands disposed of.

hvk

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Principal Special Court
for EC & NDPS Act Cases,
Chennai.

2. The Inspector of Police,
G-1, Vepery Police Station,
Chennai - 12.

3. The Public Prosecutor,
High Court of Madras.

+lcc to Mr.M.Karthik, Advocate, SR.No.82862

CrI.O.P.No.24823 of 2019

Kak(30/09/2019)



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