

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.28803 of 2019

and

Crl.M.P.No.15374 of 2019

1.K.Palanisamy

2.P.Gokulapriya

3.M.Chinnusamy

...Petitioners/Accused 1 to 3

Vs.

The State rep by its,
Inspector of Police,
District Crime Branch,
Erode.Crime No.42 of 2009

...Respondent / Defacto -
Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order dated 20.12.2018 made in Crl.R.C.No.29 of 2018 on the file of the II Addl.District and Sessions Judge, Erode confirming the order dated 24.09.2018 in C.M.P.No.3010 of 2018 in C.C.No.514 of 2013 on the file of the Chief Judicial Magistrate, Erode.

For Petitioners : Mr.M.Guruprasad

For Respondent : Mr.C.Iyyapparaj
Additional Public Prosecutor

सत्यमेव जयते
O R D E R

This Criminal Original Petition is filed to set aside the order dated 20.12.2018 made in Crl.R.C.No.29 of 2018 on the file of the learned II Additional District and Sessions Judge, Erode confirming the order dated 24.09.2018 in C.M.P.No.3010 of 2018 in C.C.No.514 of 2013 on the file of the learned Chief Judicial Magistrate, Erode.

2. This Court does not strictly find any illegality in the order of the learned Chief Judicial Magistrate, Erode, rejecting the petitioner's application under Section 311 Cr.P.C, since the request for cross examination was made, after a lapse of six years from the date of original examination of the witnesses.

Nevertheless, the learned counsel for the petitioners would submit that the witnesses PW.1 to PW.3 are crucial witnesses, who have not been given an opportunity and they have not been cross examined on certain vital aspects.

3. This Court is of the view that by permitting the petitioners to cross examine these three witnesses would also assist the Trial Court in coming to a just conclusion and if the petitioners' opportunity to further cross examine is restricted to one week, the ends of justice could be secured.

4. In the light of the above observations, the order dated 24.09.2018 passed in C.M.P.No.3010 of 2018, as confirmed in the revision in CrI.R.C.No.29 of 2018 dated 20.12.2018, are set aside. Consequently, the learned Chief Judicial Magistrate, Erode, shall permit the petitioner to cross examine PW.1 to PW.3 and ensure that such examination is completed on or before 08.11.2019. It is made clear that the petitioner shall not be given any further opportunity or extension of time for such a cross examination.

5. Accordingly, the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (Insp.Cell)

//True Copy//

jas/hvk

Sub Assistant Registrar

To

1. The Inspector of Police,
District Crime Branch, Erode.
2. The Public Prosecutor,
High Court of Madras.
3. II Additional District and Sessions Judge,
Erode
4. The Chief Judicial Magistrate, Erode.

+1 cc to Mr.M.Guruprasad, Advocate, S.R.No.89527

CrI.O.P.No.28803 of 2019
and
CrI.M.P.No.15374 of 2019

BP (CO)
SSM(31/10/2019) .