



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.04.2019

CORAM

THE HONOURABLE MR. JUSTICE **M.DHANDAPANI**

Cr1.O.P.(MD)No.5564 of 2019

WEB COPY

1.Paul Johnson

2.Jesuvini Fabi

: Petitioners/Accused 1 & 7

Vs.

State Represented by
The Inspector of Police,
Central Bureau of Investigation,
Anti-Corruption Branch,
III Floor, Sastri Bhawan,
No.26, Haddows Road,
Chennai - 600 006.

: Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records of the order dated 15.02.2019 passed in Cr.M.P.No.2691 of 2018, in C.C.No.7 of 2012 on the file of the learned II Additional District Judge for CBI Cases, Madurai and set aside the same and to direct the court concerned to permit further cross examination of P.W.3, P.W.4, P.W.5, P.W.8 and P.W.9 by recalling P.W.3, P.W.4, P.W.5, P.W.8 and P.W.9.

For Petitioners : Mr.J.Selvam

For Respondent : Mr.N.Nagendran

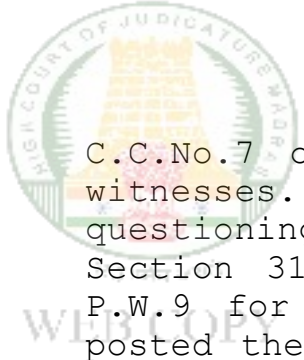
Spl.Public Prosecutor for CBI Cases

O R D E R

The Deputy General Manager, Fraud Investigation Cell, lodged a complaint on 04.10.2010, before the C.B.I, on the same day the case was registered against the 11 persons. The petitioners herein are A1 and A7.

2.The case of the prosecution is that A1 to A5 and A7 to A18 conspired with A6, who was functioning as a public servant in Syndicate Bank, Dindigul Main Branch during 2005-2008, in the matter of applying sanctioning and disbursing of housing loans. Thereby caused wrongful loss to the tune of Rs.1,06,83,052/- to Syndicate Bank, Dindigul Main Branch and corresponding wrongful gain to the accused persons.

3.After investigation, the respondent C.B.I filed a final report in the year 2012, before the learned II Additional District Judge for CBI cases, Madurai, and the learned Judge assigned



C.C.No.7 of 2012. Thereafter, the prosecution examined all the witnesses. Thereafter, the case was posted for 313 Cr.P.C., questioning. At that time, the petitioner filed a petition under Section 311 Cr.P.C, to re-call P.W.3, P.W.4, P.W.5, P.W.8 and P.W.9 for cross examination. In the meantime, the trial court posted the case for prosecution examination, some of the accused were examined. Thereafter, the trial court considered the 311 Cr.P.C petition and concluded that the petitioner intended to prolonged the case, on the ground the said petition was dismissed. Against which, the present Criminal Original Petition has been filed by the petitioner.

4.The learned counsel appearing for the petitioner would submit that if one opportunity is given to the petitioner to recall and cross-examine P.W.3, P.W.4, P.W.5, P.W.8 and P.W.9, the petitioners will be able to prove their case effectively, Hence, he prayed for recalling P.W.3, P.W.4, P.W.5, P.W.8 and P.W.9.

5.The learned Special Public Prosecutor for the respondent would submit that the order passed by the learned II Additional District Judge for CBI cases, Madurai, is perfectly correct. The petitioners did not establish valid grounds for recalling the prosecution witnesses. If this Court intend to issue a direction to recall P.W.3, P.W.4, P.W.5, P.W.8 and P.W.9., provided that the petitioners have to complete the cross examination and the petitioners are also directed to bear the expenditure incurred by the respondent police, for recalling the witnesses.

6.Considering the facts and circumstances of the case, the order dated 15.02.2019, passed by the learned II Additional District Judge for CBI cases, Madurai, in Cr.M.P.No.2691 of 2018, is set aside and this Criminal Original Petitioner is allowed with a direction to the petitioners to pay a sum of Rs.Rs.10,000/- for each witness (totally Rs.50,000/-) to the respondent. The respondent C.B.I has to produce the witnesses on 29.04.2019 and 30.04.2019, the petitioners are also directed to complete the cross examine the witnesses on the same day.

7.With the above directions, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar ()

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To

1.The II Additional District Judge for CBI Cases,
Madurai.

2.The Inspector of Police,
Central Bureau of Investigation,
Anti-Corruption Branch,
III Floor, Sastri Bhawan,
No.26, Haddowis Road,
Chennai - 600 006.

3.The Special Public Prosecutor for CBI Cases,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.J.SELVAM, Advocate (SR-61195[F] dated 16/04/2019)
das

Crl.O.P.(MD)No.5564 of 2019

15.04.2019

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