

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.02.2020

CORAM

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

CRL.O.P.No.2398 of 2020

Sidhan

... Petitioner

Vs.

The State

The Inspector of Police,
Kolathur Police Station,
Salem.

(Crime No.470/2013)

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 13.12.2019 in Crl.MP.No.622 of 2019 in C.C.No.4 of 2014 passed by the learned Special Judge for EC Act cases, Salem.

For Petitioner :Mr.M.G.Udayashankar

For Respondent :Mr.M.Mohamed Riyaz

Additional Public Prosecutor

O R D E R

This petition has been filed by the accused to set aside the order passed by the Special Judge for EC Act Cases, Salem in Crl.MP.No.622 of 2019 in C.C.No.4 of 2014 dated 13.12.2019.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

3. The learned counsel for the petitioner has submitted that the petitioner is facing trial for the alleged offence punishable under Sections 8(c) R/w 20(a)i NDPS Act 1985. He further submitted that the petitioner is a tribe and he is an illiterate and hence, he could not instruct his counsel to cross examine P.W.3 and P.W.5 to P.W.9 properly and hence, the petitioner's counsel has omitted to ask some material questions during cross examination of the aforesaid witnesses. He further submitted that on 19.11.2019, the petitioner has filed a petition under Section 311 of Cr.P.C in Crl.MP.No.622 of 2019 in C.C.No.4 of 2014 dated 13.12.2019 before the trial court to recall P.W.3 and P.W.5 to P.W.9 for further cross examination, but the learned trial court judge has dismissed the said

petition. He further submitted that since the petitioner is facing serious charges, an opportunity may be given to the petitioner for further cross examination of the aforesaid witnesses or otherwise he will put to irreparable loss and injury. Hence he prayed to allow this petition and set aside the order passed by the learned Special Judge for EC Act

Cases, Salem and permit the petitioner to further cross-examine the aforesaid witnesses.

4. Per contra, the learned Additional Public Prosecutor has submitted that the aforesaid case is pending from the year 2014 and copies of the charge sheet and other documents were furnished to the petitioner in the year 2014 itself. He further submitted that P.W.3 was examined in chief on 10.07.2017 and P.W.5 to P.W.8 were examined on 27.12.2018 and P.W.9 was examined on 08.11.2019. So, the petitioner had sufficient time to give instructions to his counsel to cross examine the said witnesses effectively. He further submitted that already the said witnesses were cross examined elaborately and taking into consideration of the aforesaid facts, the trial court has rightly dismissed the petition and in the said order, this Court need not interfere and therefore he prayed to dismiss this petition.

5. Considering the submissions of the learned counsel for the petitioner that the petitioner is an illiterate and he is a tribe and also the charges being faced by the petitioner, this court is inclined to give one more opportunity to the petitioner to further cross examine the aforesaid witnesses by imposing stringent conditions.

6. In the result, this criminal original petition will be allowed on deposit of Rs.20,000/- towards the expenses of P.W.3 and P.W.5 to P.W.9 before the Trial Court on or before 14.02.2020, failing which, the petition shall stand dismissed without further reference to this court. In case, the petitioner has complied with the aforesaid condition within the aforesaid period, the trial court is directed to recall P.W.3 and P.W.5 to P.W.9 and give an opportunity to the petitioner to further cross examine the said witnesses. The petitioner is directed to cross examine the said witnesses on their appearance without seeking any further adjournment.

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

Sd/-

Assistant Registrar(CS)

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Sub Assistant Registrar

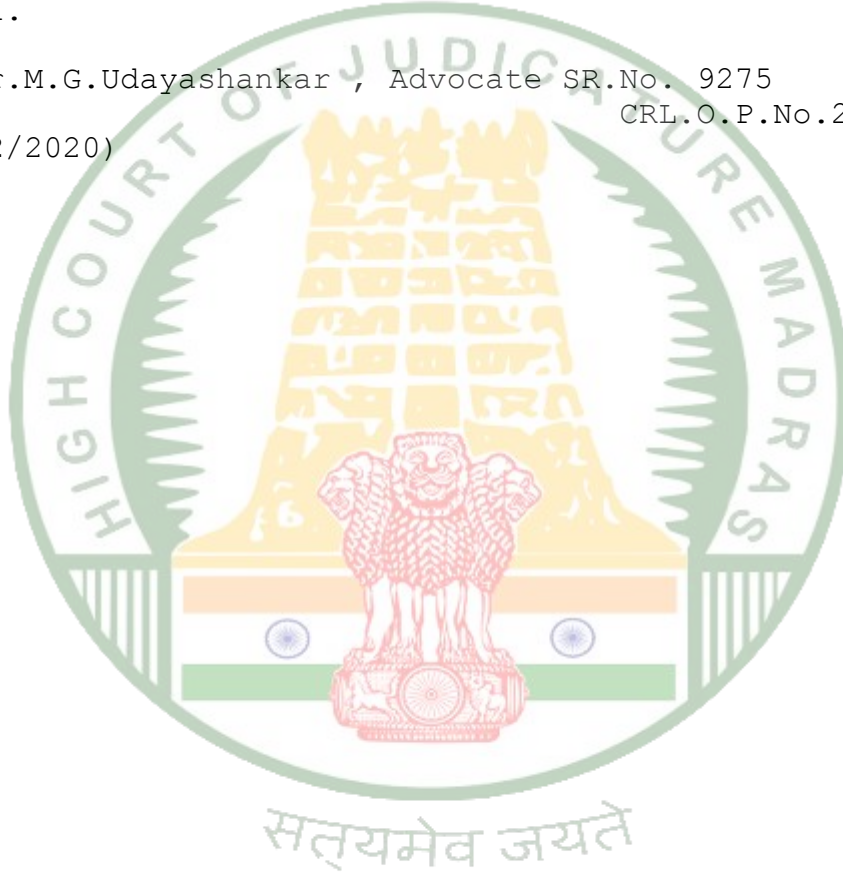
Vv
To

1. TheSpecial Judge for EC Act cases,
Salem.
2. The Inspector of Police,
Kolathur Police Station,
Salem.
- 3.The Public Prosecutor,
Madras High Court,
Chennai.

+1cc to Mr.M.G.Udayashankar , Advocate SR.No. 9275

CRL.O.P.No.2398 of 2020

A.SK(06/02/2020)



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