

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2020

CORAM

THE HONOURABLE MR. JUSTICE T. RAVINDRAN

Crl.O.P.No.18249 of 2020

and

Crl.MP.No.7125 of 2020

M. Kumar

S/o. C. Mannathan

... Petitioner

Vs.

State rep. by Deputy Superintendent of Police

Enonomic Offence Wing II Unit

Coimbatore District

... Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., praying to set aside and modify the order passed in C.M.P. No.2838 of 2019 in C.C. No.12 of 2013 dated 27.02.2020 in respect of payment of cost of Rs.2,500/- to each of the witnesses on the file of the Special Judge, Special Court under TNPID Act, Coimbatore, and pass such other suitable orders which may deem fit and proper of this case.

For Petitioner : Mr. G. Murugendran

For Respondent : Ms. M. Prabhavathi

Additional Public Prosecutor

O R D E R

The Criminal Original Petition has been laid by the petitioner/A7 seeking to modify the order passed in C.M.P. No.2838/2019 in CC No.12/2013 dated 27.02.2020 on the file of the Special Judge, Special Court under TNPID Act, Coimbatore.

2. It is noted that A6 and A7 (the petitioner herein) had been added subsequently by way of an additional charge sheet. It is noted that following the same, they had entered appearance through counsel on 03.02.2017. However, immediately thereafter, they have not endeavoured to recall the prosecution witnesses already examined in the matter. The trial was progressing and after the examination of P.Ws.1 to 78, the prosecution evidence was closed on 05.09.2019 and posted for defence evidence and thereafter the matter stood adjourned for arguments. At that stage, the petition has been preferred by A7 for recalling the prosecution witnesses for the purpose of cross examination. As rightly held by the court below, the petitioner has not been earnest and sincere in preferring the petition immediately after entering

appearance for recalling P.Ws.1 to 78 and on the other hand, when the matter is about to be concluded, at the fag end of the proceeding, he has chosen to prefer the petition for recalling the prosecution witnesses. Considering the abovesaid factors in toto, with a view to render justice to the petitioner and give one more chance to defend his case, the court below had deemed it fit to entertain the petition preferred by the petitioner on the payment of cost of Rs.2,500/- to each of the witness to be deposited into the court on or before 24.03.2020, failing which directed the dismissal of the petition.

3. Seeking to modify the abovesaid condition imposed by the court below with reference to the payment of cost of Rs.2,500/- to each of the witnesses, the present Criminal Original Petition has been laid.

4. As above pointed out, the petitioner has been taking his own time in recalling the prosecution witnesses for the purpose of cross examination. He having entered appearance in the year 2017 itself through counsel, should have been serious and honest in recalling the prosecution witnesses at the earliest point of time and cooperated with the trial for the conclusion of the same. On the other hand, he had not taken any steps immediately to recall the prosecution witnesses and only after the matter stood adjourned for arguments, had chosen to prefer the petition. In such view of the matter, it is evident that the petitioner has not been serious in recalling of the prosecution witnesses for defending his case. His aim seems to be to delay the proceedings one way or the other with a view to cheat the depositors. However, in the interest of justice, the court below had chosen to entertain the petition preferred by the petitioner on the payment of cost of Rs.2,500/- to each of the witnesses. The above condition imposed by the court below, in my considered opinion, is not onerous or burdensome. The Court below has rightly fixed the cost of the witnesses.

5. Considering the facts and circumstances of the case, I do not find any valid and acceptable reason to interfere with the impugned order and therefore, the modification sought for by the petitioner deserves no acceptance.

6. In view of the abovesaid factors, there is no merit in the Criminal Original Petition. Resultantly, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

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Sub Assistant Registrar

bga

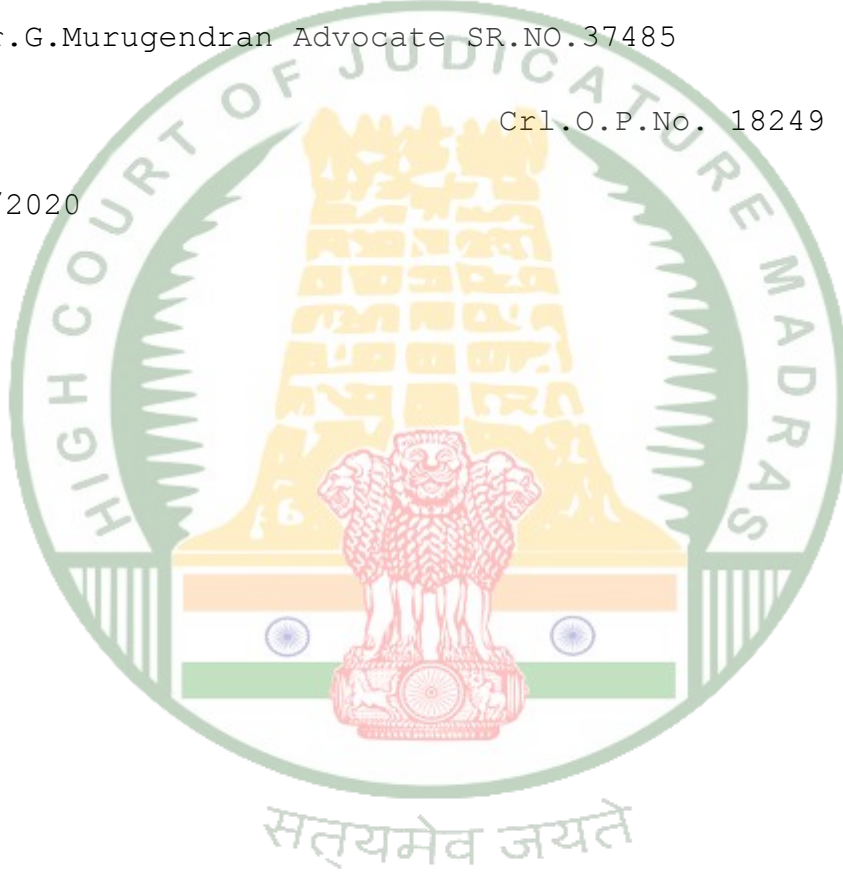
To

1. State rep. by Deputy Superintendent of Police
Enonomic Offence Wing II Unit
Coimbatore District.
2. The Sepecial Judge,
Special Court,
TNPID-act, Coimbatore.
3. The Public Prosecutor,
Madras High Court, Chennai.

+lcc to Mr.G.Murugendran Advocate SR.NO.37485

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BR CO
SDR 15/12/2020



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