

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2020

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

Crl OP.No.18372 of 2020
and
Crl. M.P. No.7179 of 2020

Natarajan
S/o. C. Manokaran

...Petitioner

Vs.

The State Rep by Deputy Superintendent of Police
Economic Offence Wing II Unit
Namakkal District.

...Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to set aside the order made in CMP No.663 of 2020 dated 07.09.2020 in CC No.27 of 2012 on the file of the Special Judge, Special Court under Tamilnadu Protection of Interest, Depositors Act, Coimbatore.

For Petitioner : Mr. G. Mugendran

For Respondent : Ms. M. Prabhavathi
Additional Public Prosecutor

ORDER

Assailing the order dated 07.09.2020 in CMP No.663 of 2020 in C.C. No.27 of 2012 on the file of the Special Judge, Special Court under Tamilnadu Protection of Interest, Depositors Act, Coimbatore, the petitioner/A4 has preferred this Criminal Original Petition.

2. The CMP No.663 of 2020 has been preferred by the petitioner/A4 under Section 311 Cr.PC to recall PWs.1 to 511 for the purpose of cross examination on the footing that due to the personal inconvenience of the counsel on record, he was unable to cross examine the abovesaid witnesses.

3. The abovesaid petition preferred by the petitioner/A4 was stiffly resisted by the respondent contending that only with a view to cheat the depositors in a sum of Rs.7,50,07,922/-, the

petitioner has come forward with the petition without any basis to delay the proceedings endlessly and the matter is pending from the year 2015 onwards in the stage of trial and in such view of the matter, the respondent sought for the dismissal of the petition.

4. The court below, on an appreciation of the materials available on record and the rival contentions put forth by the respective parties, was pleased to dismiss the abovesaid petition preferred by the petitioner/A4. Impugning the same, the present Criminal Original Petition has been laid by the petitioner/A4.

5. On a perusal of the records and the rival contentions put forth by the respective parties, this Court felt that the court below on proper reason had declined to recall P.Ws.1 to 511 as prayed for by the petitioner/A4, particularly, when it is noted that no plausible and convincing reasons has been mentioned by the petitioner/A4 to recall of the abovesaid witnesses and in such view of the matter, this Court was also inclined to concur with the reasons given by the court below for dismissing the abovesaid petition preferred by the petitioner.

6. At this stage, the petitioner's counsel prayed that the petitioner/A4 may atleast be permitted to recall only the IOs, who are examined as P.Ws.509 and 511, and with reference to the other prosecution witnesses, he is not pressing the Criminal Original Petition and as per the direction of this Court with reference to the abovesaid request by the petitioner, the petitioner's counsel has filed a memo restricting the relief sought for in the Criminal Original Petition only with reference to recalling of P.Ws.509 and 511 for cross examination. As per the memo filed by the petitioner, he is not pressing the Criminal Original Petition for the recall of the other prosecution witnesses.

7. The Additional Public Prosecutor represents that since the petitioner has restricted his relief confining to recalling of P.Ws.509 and 511, accordingly left the matter to be decided by this Court in the interest of justice.

8. The memo filed by the petitioner is taken on record.

9. Taking into consideration the abovesaid factors, inasmuch as the petitioner is not intending to recall all the prosecution witnesses and restricting his relief only with reference to recalling the prosecution witnesses 509 and 511, who are the IOs, in the interest of justice and also in the fitness of things, I am of the considered opinion that a suitable opportunity should be provided to the petitioner to cross

examine the IOs, namely, P.Ws.509 and 511 and accordingly, the impugned order passed by the court below in CMP No.663/2020 dated 07.09.2020 is confirmed as far as the dismissal of the abovesaid petition for recalling P.Ws.1 to 508 and 510 and in the light of the memo filed by the petitioner in the Criminal Original Petition, the impugned order abovestated is set aside insofar as the dismissal of the petition preferred by the petitioner to recall P.Ws.509 and 511 and resultantly, P.Ws.509 and 511 are directed to be recalled by the court below for enabling the petitioner to cross examine them and the petitioner is directed to pay the necessary batta and charges for the recalling of the abovesaid two witnesses as per law.

10. Accordingly, the Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Copy to

1. The Special Judge,
Special Court under Tamilnadu Protection of
Interest, Depositors Act,
Coimbatore.
2. The Deputy Superintendent of Police
Economic Offence Wing II Unit
Namakkal District.
3. The Public Prosecutor,
High Court, Madras.

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srg 11/01/2021