



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.01.2020

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THE HONOURABLE MR.JUSTICE **M.NIRMAL KUMAR**

CRL.O.P. (MD) .No.18878 of 2019

and

CRL.M.P (MD) No.11072 of 2019

A.M.Mujeeb @ Niyaz Khan @ Azad

.. Petitioner/ Petitioner/
Accused

Vs.

The State Represented by
The Inspector of Police,
CBI, ACB, Chennai.

.. Respondent/ Respondent/
Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for records and set aside the order dated 18.11.2019 in Cr.M.P.No.1956 of 2019 in C.C.No.8 of 2007 on the file of the II Additional District Judge for CBI Cases, Madurai and direct the trial court to recall and re-examine the witnesses mentioned in the Cr.M.P.No.1956 of 2019.

For Petitioner : Mr.S.Poornachandran

For Respondent : Mr.N.Nagenthiran,
Special Public Prosecutor.

O R D E R

This Criminal Original Petition has been filed to set aside the order dated 18.11.2019 in Cr.M.P.No.1956 of 2019 in C.C.No.8 of 2007 on the file of the learned II Additional District Judge for CBI Cases, Madurai and direct the trial court to recall and re-examine the witnesses mentioned in Cr.M.P.No.1956 of 2019.

2. The petitioner is arrayed as an accused in C.C.No.8 of 2007, had filed a petition in Cr.M.P.No.1956 of 2019 under Section 311 of Cr.P.C., before the learned II Additional District Judge for CBI Cases, Madurai, to re-call P.W.2 to P.W.6 and P.W.12 to P.W.14 and P.W.16.



3.The trial Court after perusal of records permitted the petitioner to re-call of P.W.12, on deposit of Rs.20,000/- as witness batta. As regards other witnesses, it has been dismissed. As against which, he filed the present petition.

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4.In the order of the lower Court, the evidence of the witnesses have been extracted and also the date of examination. Further, about the split up of the case from the mother case particulars have also been given. Further, the petitioner now agrees for examination of the witness, namely, P.W.16/Meenakshi Sundaram, who was working as Chief Manager, Trichy Zonal, retired from service.

5.The learned Special Public Prosecutor opposed to re-call the witness by stating that the petitioner was accused in C.C.No.6 of 2005, since, he had been absconding, the case was split up as C.C.No.8 of 2007 from the mother case in C.C.No.6 of 2005, which was ended in conviction. He further submitted that the petitioner is only delaying the trial. The trial is in advanced stage of arguments and heard in part. Further, by re-calling the witnesses again and again only causes harassment to the witnesses.

6.The learned counsel for the petitioner submitted that he has not cross examined the said witnesses. He also submitted that the evidence of the above said witnesses are crucial for arriving at a decision in this case. Without considering the fact, the trial Court partly allowed the petition filed by the petitioner.

7.Considering the facts and circumstances of the case, the petitioner may be given one more opportunity to cross examine the witness. The witness P.W.16 alone is permitted to be re-called and cross examine by the petitioner. The petitioner agrees to deposit a sum of Rs.10,000/- as witness batta for P.W.16, this is in addition to re-call of P.W.12, which has been permitted by the trial Court on deposit of Rs.20,000/-. The petitioner shall deposit Rs.20,000 + Rs.10,000= Rs.30,000/- within a period of three working days from the date of receipt of a copy of this order.

8.The petitioner is directed to examine P.W.16 and P.W.12, on the date fixed by the trial Court on payment of necessary charges. If the petitioner fails to cross examine P.W.16 and P.W.12 on the date fixed by the trial Court, the trial Court is directed to proceed with the trial in accordance with law. The process will be completed within a period of two weeks from the date of receipt of a copy of this order. The trial Court is directed to complete the proceedings within a period of four weeks thereafter.



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9.In view of the above, this Criminal Original Petition is partly allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

das

To

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

2.The Inspector of Police,
CBI, ACB, Chennai.

Copy to

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

+1 CC to Mr.S.POORNACHANDRAN, Advocate (SR-350[F] dated
06/01/2020)

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