

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2021

CORAM :

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.No.2125 of 2021

M.M.Sundaram

... Petitioner/Accused

Vs.

State Rep. By
Inspector of Police,
Central Crime Branch,
XIVth Team, Egmore,
Chennai 8.
(Cr. No.697/2007)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C. to set aside the order passed by the Judicial Magistrate No.I, Poonamallee in Crl. M.P.No.1082 of 2020 in C.C.No.174 of 2011 dated 26.02.2020 and direct the Judicial Magistrate No.I, Poonamallee to recall the witnesses P.W.1, P.W.2, P.W.3, P.W.6, and P.W.7 for cross examination.

For Petitioner : Mr.L.Murali Krishnan

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This petition has been filed challenging the order passed by the Court below dismissing the application filed under Section 311 of Cr.P.C., wherein the petitioner had sought for recalling the witnesses P.W.1 to P.W.3, P.W.6 and P.W.7 for cross-examination.

2. The petitioner is facing trial before the Court below for offences under Section 420,465,467,468, 471 read with 34 of IPC. It is seen from records that P.W.1 was examined-in-chief on 11.06.2008, P.W.2 was examined-in-chief on 20.08.2014, P.W.3 and P.W.4 were examined in chief on 15.07.2015, P.W.5 was examined-in-chief on 25.10.2017, P.W.6 was examined-in-chief on 08.11.2017 and P.W.7 was examined-in-chief on 20.01.2020. None of these witnesses were cross-examined by the petitioner. The petitioner filed an application under Section 311 of Cr.P.C. to recall these witnesses for cross-examination. The same was

dismissed by the Court below by an order dated 26.02.2020. Aggrieved by the same, the present petition has been filed before this Court.

3. Heard Mr.L.Murali Krishnan, learned counsel appearing for the petitioner and Mr.Mohammed Riyaz, learned Additional Public Prosecutor appearing on behalf of the respondent.

4. In the considered view of this Court, this Court does not find any illegality or infirmity in the order passed by the Court below. There was absolutely no justification on the part of the petitioner not to have cross-examined the witnesses at the time when they were examined-in-chief. That apart, the petitioner did not take any immediate steps to file an application for recalling the witnesses and it has been filed with an exorbitant delay. Such attitude on the part of the petitioner, cannot be entertained and the applications filed under Section 311 of Cr.P.C. cannot be allowed as a matter of routine.

5. It is brought to the notice of this Court that P.W.7 is the Investigating Officer and he was examined-in-chief on 20.01.2020. Considering the charges framed against the petitioner, this Court deems it fit to give one last opportunity to the petitioner to cross examine P.W.7.

6. In view of the above, the order passed by the Court below is interfered only insofar as P.W.7 is concerned and the same is accordingly modified. The Court below is directed to fix a date for appearance of P.W.7 and the petitioner shall pay a cost of Rs.1,000/- (Rupees one thousand only) to P.W.7 on the date of his appearance. On such payment, the Court below shall permit the petitioner to cross examine P.W.7 and the cross-examination shall be completed on the very same day.

7. This Criminal Original Petition is disposed of accordingly with a direction to the Court below to complete the proceedings in CC.No.174 of 2011 within a period of three months from the date of receipt of a copy of this order.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

jv

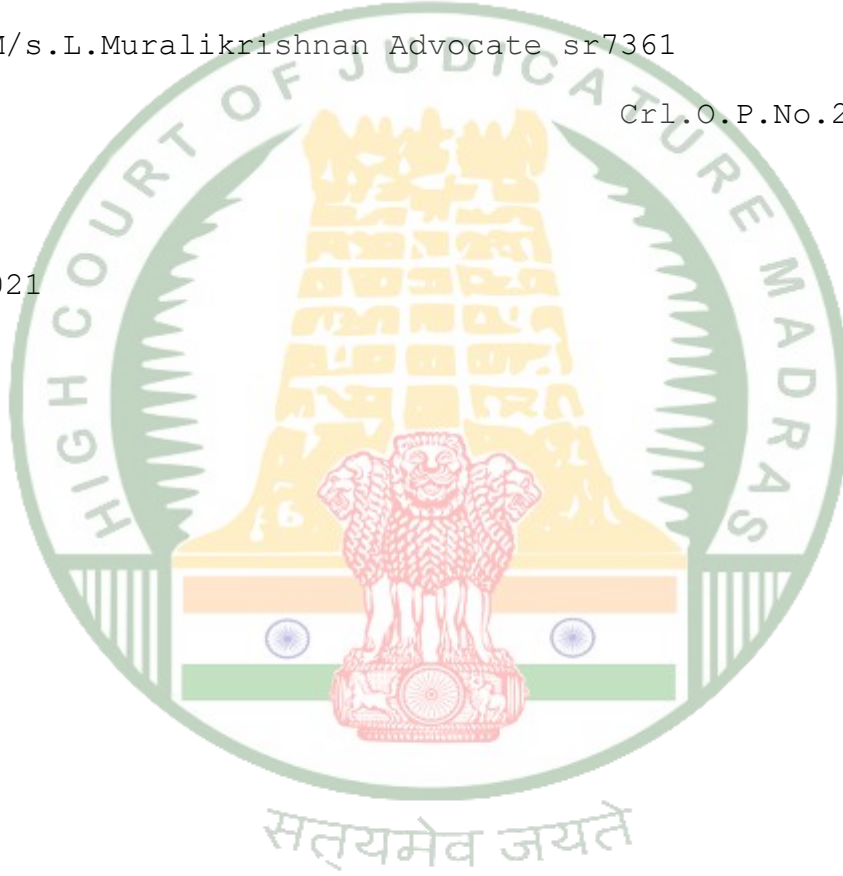
To

1. The Judicial Magistrate No.I,
Poonamallee.
2. The Inspector of Police,
Central Crime Branch,
XIVth Team, Egmore,
Chennai 8.
3. The Public Prosecutor,
High Court, Madras.

+1 cc to M/s.L.Muralikrishnan Advocate sr7361

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