

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.1088 of 2021

Thirupathi Raja

... Petitioner

Vs.

The Inspector of Police,
Central Crime Branch,
Chennai.

CC.No.176 of 2011

... Respondent

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the order passed by the learned Judicial Magistrate-I, Poonamallee in Crl.MP.No.412 of 2020 in CC.No.176 of 2011 dated 26.02.2020 and direct the learned Judicial Magistrate-I, Poonamallee to recall the witnesses PW1, PW2, PW3,PW4,PW5,PW6 and PW8 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 PW1 to PW3, PW5,PW6 and PW8 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 PW1 was examined-in-chief on 27.08.2009, PW2 was examined-in-chief on 08.11.2017, PW3 and PW4 were examined-in-chief on 10.01.2018, PW5 was examined-in-chief on 07.02.2018, PW6 was examined-in-chief on 28.02.2018 and PW8 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 for the petitioner and Mr.Mohammed Riyaz, learned Additional Public Prosecutor appearing on behalf 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

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 PW8 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 PW8.

6. In view of the above, the order passed by the Court below is interfered only insofar as PW8 is concerned and the same is accordingly modified. The Court below is directed to fix a date for appearance of PW8 and the petitioner shall pay a cost of Rs.1,000/- (Rupees one thousand only) to PW8 on the date of his appearance. On such payment, the Court below shall permit the petitioner to cross examine PW8 and the cross-examination shall be completed on the very same day.

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7. This Criminal Original Petition is disposed of accordingly with a direction to the Court below to complete the proceedings in CC.No.176 of 2011 within a period of three months from the date of receipt of a copy of this order.

N.ANAND VENKATESH,J.

rli

Speaking Order/Non-speaking Order

Index :Yes/No

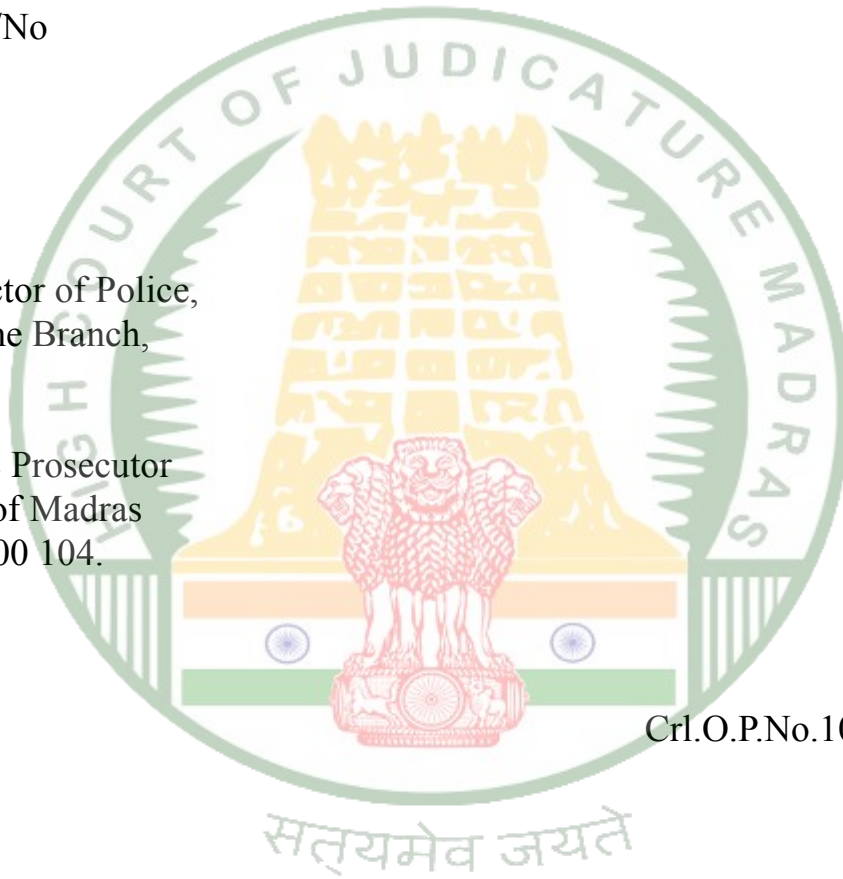
Internet:Yes/No

rli

To

1.The Inspector of Police,
Central Crime Branch,
Chennai.

2.The Public Prosecutor
High Court of Madras
Chennai – 600 104.



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