

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.02.2021

CORAM

THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.3658 of 2021

Ganeshkumar

.. Petitioner

Vs.

The Sub Inspector of Police,
Central Crime Branch,
Veppery, Chennai.
(Cr,.No.153 of 2009)

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to extend the time granted to the petitioner in Crl.M.P.No.8949 of 2019 in CC.No.4164 of 2010 on the file of the learned CCB & CBCID Metropolitan Magistrate, Egmore and to permit the petitioner to pay the cost of Rs.3,000/- towards and to permit the petitioner to pay the cost of Rs.3,000/- towards the Chief Justice Relief Fund, Tamil Nadu.

For Petitioner : Mr.J.Suresh

For Respondent : Mr.C.Raghavan

Government Advocate (Crl. Side)

O R D E R

This petition has been filed seeking for extension of time to enable the petitioner to comply with the conditions imposed by the Court below while allowing the application filed by the petitioner under Section 311 of Cr.P.C. to recall witnesses PW2 to PW8 for cross examination.

2. The petitioner is facing trial before the Court below for the offences under Section 406 and 420 IPC. The prosecution examined PW2 to PW8. However, they were not cross examined by the petitioner. Hence, the petitioner filed an application under Section 311 of Cr.P.C. to recall PW2 to PW8 for the purpose of cross examination. The Court below, by an order dated 13.03.2020, allowed the application by imposing the following conditions:

- 'The petitioner/accused shall deposit witness batta Rs.1,000/- each for PW2, PW3, PW7 and PW8 (totally Rs.4,000/-) and Rs.750/- each for PW4 and Pw6 (totally

Rs.1,500/-) and Rs.1,500/- for Pw6 in the credit of C.C.No.4164 of 2010 for the said witnesses.

- The petitioner/accused shall pay process fee to issue witness summons to the said witnesses PW2 to PW8 by way of RPAD.
- The petitioner/accused shall pay a cost of Rs.3,000/- payable at 'Chief Justice Relief Fund, Tamil Nadu' within 10 days and the receipt shall be produced before this Court on the next hearing date without fail.
- On failure of pay the cost, this petition shall stand dismissed without any further orders.'

3. The petitioner did not pay the cost within the time stipulated by the Court below and hence, the application stood automatically dismissed. Aggrieved by the same, the present petition has been filed before this Court seeking for extension of time to comply with the conditions imposed by the Court below.

4. The learned counsel for the petitioner submitted that the petitioner was not able to comply with the conditions due to the intervening pandemic situation. The learned counsel further submitted that the petitioner will deposit the amount within the time stipulated by this Court and the petitioner will not drag on the proceedings further and will co-operate for the completion of the proceedings within the time limit fixed by this Court. The learned counsel further submitted that the case is now at the stage of evidence on the defence side.

5. Heard Mr.J.Suresh, learned counsel for the petitioner and Mr.C.Raghavan, learned Government Advocate (Crl. Side) appearing on behalf of the respondent.

6. Taking into consideration the facts and circumstances of the case and considering the seriousness of the charges faced by the petitioner and also taking note of the intervening pandemic situation, this Court deems it fit to give one last opportunity to the petitioner to pay the cost imposed by the Court below and to recall the witnesses for cross examination.

7. This Criminal Original Petition is disposed of with the following directions:

- a. The petitioner shall deposit the costs imposed by the Court below within a period of one week from today;
- b. the petitioner shall file a memo before the Court below along with proof for such deposit of the cost and the Court below shall fix a date for the appearance of PW2 to PW8;
- c. the petitioner shall complete the cross examination of the witnesses on the very same day, they appear before the Court below;
- d. if for any reasons, the petitioner fails to cross examine any of the witnesses on the date of their appearance, the

petitioner will forfeit his right to recall the witness in future;

e. If the petitioner fails to deposit the cost within the time stipulated by this Court, the default clause will come into operation and the recall application of the petitioner will stand automatically dismissed and the Court below is directed to complete the proceedings in C.C.No.4164 of 2010 within a period of three months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1.The learned CCB & CBCID Metropolitan Magistrate,
Egmore, Chennai.

2. The Sub Inspector of Police,
Central Crime Branch,
Veppery, Chennai.

3.The Public Prosecutor,
High Court, Madras.

+1 cc to M/sJ.Suresh, Advocate Sr.No. 11737(26/02/2021)

Cr1.O.P.No.3658 of 2021

JPII(CO)
RMP(25/02/2021)

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