

Crl.O.P.No.18722 of 2021

M.NIRMAL KUMAR. J.,

This matter came up for hearing today under the caption 'For Being Mentioned' at the instance of the learned counsel appearing on behalf of the petitioner.

2.The learned counsel appearing on behalf of the petitioner submits that in the final order passed by this Court on 05.10.2021 in Crl.O.P.No.18722 of 2021, in paragraph No.8, it has been wrongly typed as follows:-

“Accordingly, this Criminal Original Petition is disposed of and the petitioner is permitted to re-call P.W.1 and P.W.5 for further cross examination, preferably on 11.10.2021. After completion of cross examination of P.W.1 and P.W.5, the cross examination of P.W.11 Investigation Officer would be completed, so that the omissions and contradictions can be put to the witness. The entire process to be completed within a period of two weeks from the date of receipt of a copy of this order.”

and prays that the said mistake may be rectified in the order.

3.The learned Additional Public Prosecutor appearing for the respondent Police submits that the order may be rectified.

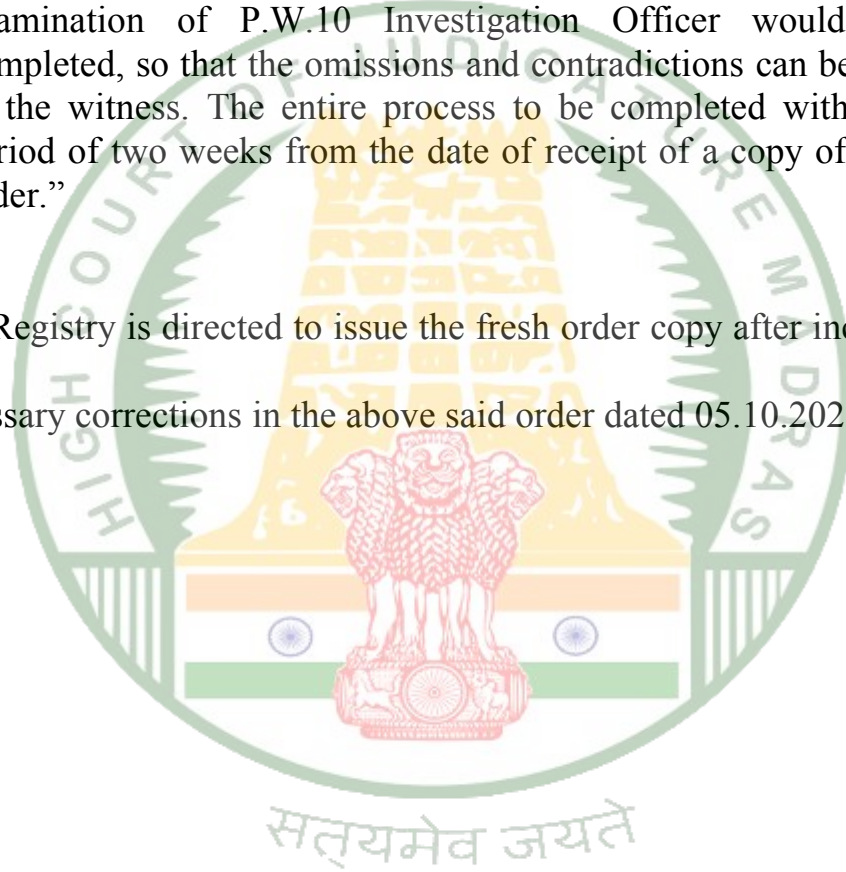
4.Accordingly, the 8th paragraph of the order dated 05.10.2021 in the above Criminal Original Petition shall be read as follows:-

“Accordingly, this Criminal Original Petition is disposed of and the petitioner is permitted to re-call P.W.1 and P.W.5 for further cross examination, preferably on 11.10.2021. After completion of cross examination of P.W.1 and P.W.5, the cross examination of P.W.10 Investigation Officer would be completed, so that the omissions and contradictions can be put to the witness. The entire process to be completed within a period of two weeks from the date of receipt of a copy of this order.”

5.Registry is directed to issue the fresh order copy after incorporating the necessary corrections in the above said order dated 05.10.2021.

22.10.2021

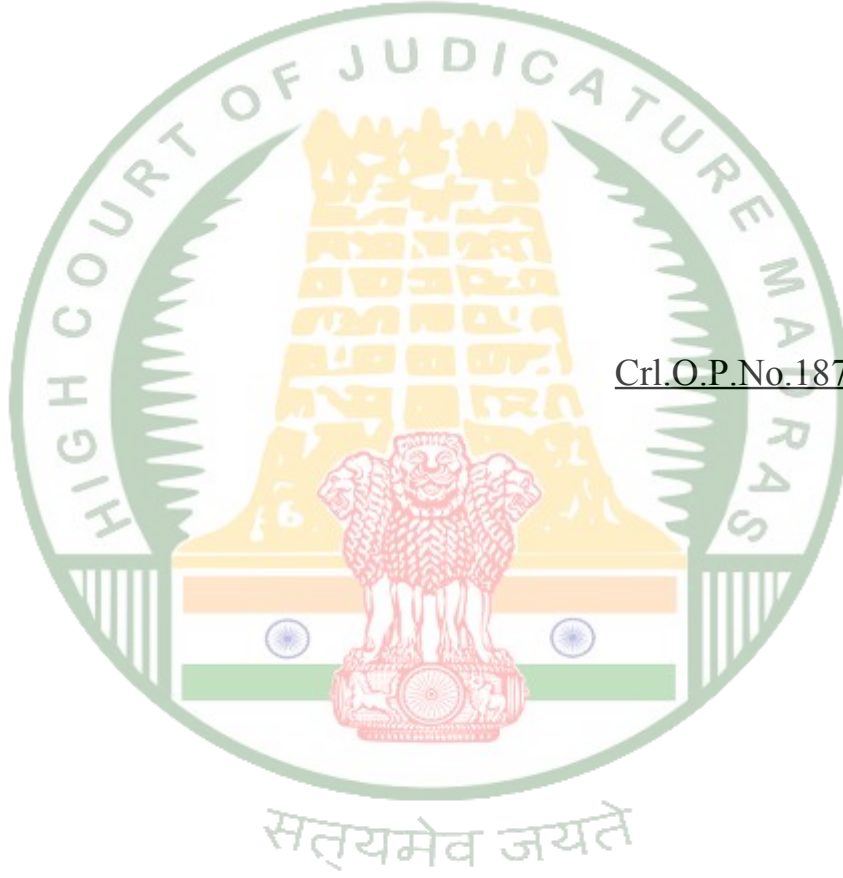
vv2



WEB COPY

M.NIRMAL KUMAR. J.,

vv2



Crl.O.P.No.18722 of 2021

WEB COPY

22.10.2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.18722 of 2021 and Crl.M.P. No.10286 of 2021

S.Palanivel

... Petitioner

Versus

The State by
The Inspector of Police,
Dharapuram Police Station,
Tiruppur District.
(Crime No.519/2009)

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to set aside the order dated 24.09.2021 made in Crl.M.P. No.1922 of 2021 in C.C. No.16 of 2010 on the file of the learned Judicial Magistrate, Dharapuram by allowing this Criminal Original Petition.

For Petitioner :

Mr.N.Manoharan

For Respondent :

Mr.A.Damodharan,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to set aside the order

dated 24.09.2021 made in Crl.M.P. No.1922 of 2021 on the file of the learned Judicial Magistrate, Dharapuram.

2.The petitioner/A1 had filed a petition under Section 311 of Cr.P.C. in Crl.M.P. No.1922 of 2021 in C.C. No.16 of 2010 to re-call P.W.1 and P.W.5 for further cross examination. The Trial Court, by an order dated 24.09.2021, dismissed the same. Against which, the present petition has been filed.

3.The counsel for the petitioner submits that all the witnesses have been cross examined then and there and the case is posted for cross examination of P.W.11/Investigation Officer on 11.10.2021. He further submits that this case has been kept pending from the year 2010 and thereafter, the de-facto complainant had filed a petition for speedy disposal before this Court in Crl.O.P.No.6393 of 2021 and this Court, by an Order dated 23.04.2021, directed the Trial Court to complete the trial within a period of three months. Considering the direction issued by this Court, the trial is progressing at a fast phase and the Trial Court dismissed the petition filed by the petitioner under Section 311 of Cr.P.C.

4.The learned counsel for the petitioner further submits that though P.W.1 and P.W.5 have already been cross examined, P.W.1, who is a primary witness and P.W.5, who is a Document Writer, are important witnesses to put forth the defence of the petitioner and to prove his innocence. P.W.1, who speak about the entire transactions and the creation of the documents, was cross examined on 27.07.2021. Thereafter, other witnesses have been followed from July 2021 and the petitioner has been participating in the trial and cross examining the witnesses then and there without seeking time. He further submitted that if P.W.1 and P.W.5 appear on the next hearing date, viz. 11.10.2021, the cross examination would be completed on the same day itself and there would not be any delay on the part of the petitioner. The learned counsel for the petitioner further submitted that as the Chief examination of P.W.9 completed and the cross examination could not be completed, it would be appropriate that P.W.9, First Investigation Officer, P.W.10, Successor Officer and P.W.11, Investigation Officer to be examined.

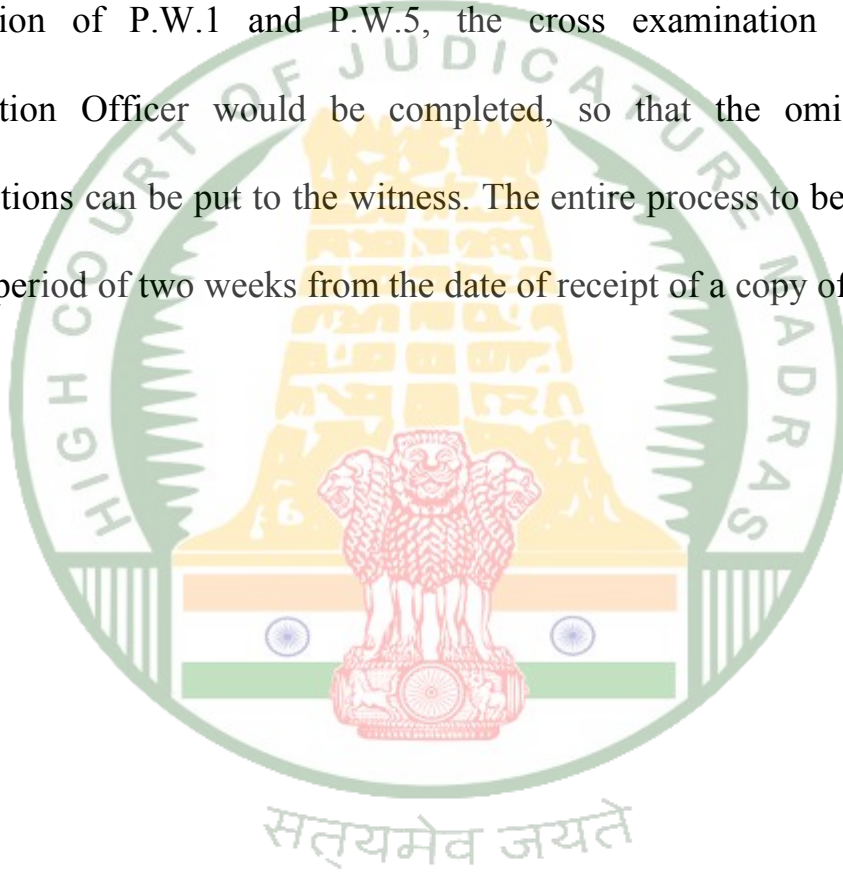
5.The learned Additional Public Prosecutor appearing for the respondent submitted that as this case is pending for the past 10 years and as per directions issued by this Court in Crl.O.P. No.6393 of 2021 on

23.04.2021, all the witnesses have been examined. The above petition was filed by the petitioner only to protract the proceedings of this case. Now, P.W.1 and P.W.5 have already been cross examined in detail and the case is posted on 11.10.2021 for examination of P.W.11, the Investigation Officer and on that date, P.W.11 will be examined and prosecution side witness will be closed.

6.Considering the submissions and on perusal of the materials, it is seen that though C.C.No.16 of 2010 is pending for quite long years, the accused in this case were served with the summons belatedly only on 04.03.2020. The accused have participated in the trial and the 1st witness of the case was examined on 27.07.2021. Thereafter, other witnesses have been examined and cross examined by the accused without seeking time.

7.Finding that the request made by the petitioner to further cross examine P.W.1 and P.W.5 to put forth certain prospects, which have been forgotten earlier, seems to be reasonable and considering that the proceedings have been pending for quite long years, this Court is inclined to dispose of the petition with certain directions.

8. Accordingly, this Criminal Original Petition is disposed of and the petitioner is permitted to re-call P.W.1 and P.W.5 for further cross examination, preferably on 11.10.2021. After completion of cross examination of P.W.1 and P.W.5, the cross examination of P.W.11 Investigation Officer would be completed, so that the omissions and contradictions can be put to the witness. The entire process to be completed within a period of two weeks from the date of receipt of a copy of this order.



WEB COPY

M.NIRMAL KUMAR, J.

mpl/vga

9.Considering the fact that the trial to be completed within 20.10.2021, a further period of one month is granted to complete the trial and the Trial Court is directed to complete the proceedings in C.C. No.16 of 2010 on or before 22.11.2021.

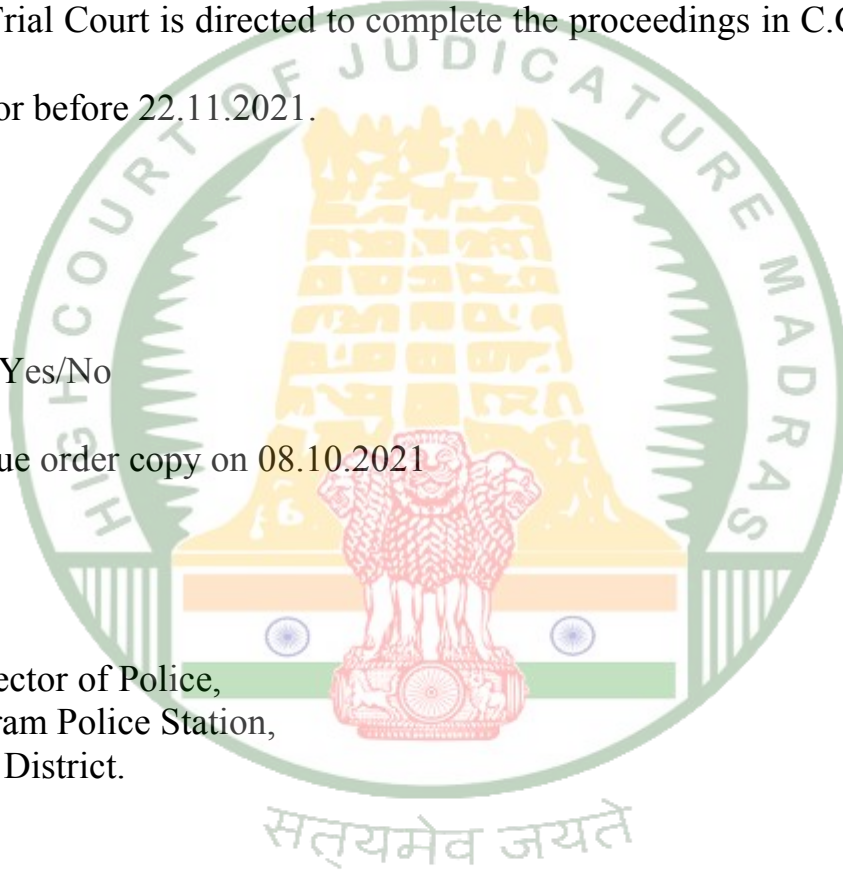
05.10.2021

Internet: Yes/No
mpl/vga

Note: Issue order copy on 08.10.2021

To

The Inspector of Police,
Dharapuram Police Station,
Tiruppur District.



Crl.O.P.No.18722 of 2021 and Crl.M.P. No.10286 of 2021

WEB COPY