



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.22499 of 2021

and

CrI.M.P.No.12223 of 2021

R.Sathiyaraj

...Petitioner

Versus

State Rep by Deputy Superintendent of Police,
Economic Offence Wing II Unit,
Namakkal District.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order made in CMP.NO.981 of 2020 dated 21.12.2020 in CC.No.27 of 2012 dated 21.12.2020, on the file of the Special Judge, Special Court under Tamilnadu Protection of Interest, Depositors Act, Coimbatore.

For Petitioner :	Mr.G.Murugendran
For Respondents :	Mr.E.Raj Thilak
	Addl.Public Prosecutor.

ORDER

The petitioner who is arrayed as A3 in C.C.No.27 of 2012 had filed a petition under Section 311 Cr.P.C in C.M.P.No.981 of 2020 seeking recall of PW 509 and PW511.

2. The lower Court recorded that the chief examination of the witnesses were conducted during the year 2019. The accused were questioned under Section.313(1)(b) of Cr.P.C. on 20.09.2019. Thereafter for one cause or the other, the reopen and recall applications were filed and now the case is at the stage of defence witnesses. Finding that the petitioner's intention was only to drag on the proceedings, the same was dismissed. Against which the present petition has been filed by the petitioner.



3. The contention of the petitioner is that the petitioner is facing serious charges. In this case, the petitioner is one of the Directors of A1 company. According to the petitioner, if the cross examination of the PW509 and PW511 is not done to prove that he was not involved in the day to day affairs of the A1 company. Further, if the offence against him goes unchallenged, the petitioner cannot make defence in the case and great prejudice would be caused to the petitioner.

4. The learned Additional Public Prosecutor submitted that the chief examination of PW509 and PW511 completed in the year 2019 and the other accused Viz. A1 and A2 cross examined the witnesses. At that time, the petitioner wantedly kept quite and now filed this petition. After 8 years, in this case there are totally 529 depositors and the amount cheated is Rs.7,50,07,922/-. The poor coolies, aged and retired persons deposited on the sugar coated words of the petitioner, the petitioner enjoyed the deposits of the depositors, now claiming that he is only a name lender. Further calling witnesses again and again will amount to harassment.

5. Considering the submissions and on perusal of the materials, this Court finds that PW 509 and PW511 are the I.O's taken part in the investigation. Admittedly the petitioner had cross examined these two witnesses. The evidence of the witnesses would be completed only after the cross examination of the witnesses and the evidence is put to test.

6. In view of the same, this court is inclined to recall PW509 and PW511. Since PW509 and PW511 have now retired, the petitioner is directed to pay Rs.10,000/- each as Batta on the date when they appear for the cross examination.

7. With the above directions, this Criminal Original petition is allowed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar



mp/mdl
To

1.The Deputy Superintendent of Police,
Economic Offence Wing II Unit,
Namakkal District.

2.The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.22499 of 2021

NK(CO)
SP(11/01/2022)