



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2021

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

CRL.O.P.NO.23249 OF 2021

AND

CRL.M.P.NO.12747 OF 2021

S.P.Chandrasekar
S/o.Padmanaban

... Petitioner

Versus

The State by
The Inspector of Police,
Vigilance and Anti-Corruption,
CCU-III, Chennai.
Cr.No.6/AC/2009/CC-IV

... Respondent

PRAYER:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the order dated 08.10.2021 passed in Crl.M.P.No.6342 of 2021 in Spl.C.C.No.13 of 2011 on the file of learned Special Judge cum Chief Judicial Magistrate, Kancheepuram District at Chengalpattu, set aside the same.

For Petitioner : Mr.Ravi Anantha Padmanaban

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed challenging the order partly allowing the petition filed under Sec.311 Cr.P.C. by the petitioner to recall all the prosecution witnesses. The Trial Court permitted the petitioner only to cross-examine P.W.2 and P.W.8, rejected his request regarding other witnesses.

2. The petitioner stood charged with for the offence under Sec.7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, pending on the file of learned Special Judge cum Chief Judicial



Magistrate, Kancheepuram District at Chengalpattu. It is seen that, the trial has commenced, and all the prosecution witnesses were examined and the petitioner has also extensively cross-examined all the witnesses. Thereafter, the case is posted for examination of defence witnesses. At that time, the petitioner has filed the petition under Sec.311 Cr.P.C. to recall all the prosecution witnesses on the ground that there are two set of statement of witnesses recorded under Sec.161 Cr.P.C. available in the case diary, however, one set of statement alone was marked and other set of statement was suppressed by the prosecution. Hence, on that ground, the petitioner wanted to mark some document and cross-examine all the witnesses. the trial court partly allowed the petition, thereby permitting the petitioner to cross-examine P.W.2 and P.W.8 on payment of cost of Rs.3000/- and dismissed the petition in respect of other witnesses on the ground that there is no specific averment in the petition regarding the purpose, for which, they sought to be cross-examined.

3. Mr.Ravi Anantha Padmanaban, learned counsel appearing for the petitioner would submit that, there are two set of statements of witnesses recorded under Sec.161 Cr.P.C. available in the documents furnished to the petitioner in Sec.207 Cr.P.C. proceedings, but one set of statement alone was marked. Hence, he wanted to cross-examine the investigating officer on that aspect.

4. The contentions of the petitioner cannot be countenanced for the simple reason that, already the investigating officer was extensively cross-examined by the petitioner. That apart, if at all, any omission in the cross-examination in other aspects, for that purpose, for filling up of lacuna, the petitioner cannot maintain a petition under Sec.311 Cr.P.C. to recall all the prosecution witnesses. In the above circumstances, I am of the considered view that, the petition under Sec.311 Cr.P.C. has been filed only to delay the trial. The trial court considered entire materials and permitted the petitioner to cross-examine two witnesses and I find no error in the order passed by the trial court and I find no merit in this petition. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rpp



To

1. The Inspector of Police,
Vigilance and Anti-Corruption,
CCU-III, Chennai.
2. The Special Judge-Cum-Chief
Judicial Magistrate,
Kancheepuram District,
Chengalpattu.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.Ravi Anantha Padmanaban, Advocate, S.R.No.65203

CRL.O.P.NO.23249 OF 2021

SSI (CO)
PBS/12/01/2022