



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2022

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.4172 of 2022

and

Crl.M.P.No.2076 of 2022

V. Gunasekaran

...Petitioner

Vs.

State by
The Deputy Superintendent of Police,
CCIW (CID),
Chennai.

...Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set aside the order of dismissal, in respect of recalling of P.W.13, dated 08.02.2022 made in C.M.P.No.1342 of 2021 in C.C.No.91 of 2011 on the file of the Special Court for the cases under Prevention of Corruption Act at Chennai by allowing this petition.

For Petitioner : Mr. R. Marudhachalamurthy

For Respondent : Mr. E. Raj Thilak,
Additional Public Prosecutor

O R D E R

This petition is filed to set aside the order of dismissal, in respect of recalling of P.W.13, passed in C.M.P.No.1312/2021 in C.C.No.91/2011 dated 08.02.2022 pending on the file of Special Court for the cases under Prevention of Corruption Act, Chennai.

2. Learned counsel for the petitioner submitted that so far 30 witnesses have been examined in this case, out of 40 witnesses. It is further submitted that P.W.13 was examined from 01.07.2011 to 22.10.2015 by the prosecution. Thereafter, other witnesses also examined. Petitioner filed the petition for recalling P.W.13 and P.W.30. The learned trial Judge while disposing the petition, allowed the petition in part and



permitted the recalling of P.W.30 and dismissed the prayer with regard to P.W.13. Therefore, this petition.

3. Learned Additional Public Prosecutor appearing for the respondent oppose this petition on the ground that the chief examination of P.W.13 was over on 22.10.2015. This petition is filed six years of completion of chief examination. It is an exercise to prolong the proceedings and therefore, prayed for dismissal of this petition.

4. From the submission made and perusal of the order of the learned Special Judge, it is evident that P.W.13 was chief examined from 01.07.2011 to 22.10.2015 on various dates. The evidence runs into 56 pages. It is true that the petitioner has not immediately taken steps to cross examine P.W.13. However, with a view to give an opportunity to the petitioner to cross examine P.W.13, this Court is inclined to allow this petition on the following conditions:-

(i). The learned Special Judge is directed to send summons for the appearance of P.W.13 for cross examination by the petitioner.

(ii). On the day fixed by the learned Special Judge, the petitioner can cross examine P.W.13 without seeking any adjournment.

(iii). The expenses relating to travel and other incidental expenses have to be borne by the petitioner as per the rules.

5. With the above direction, this petition is allowed. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Special Court for the cases under
Prevention of Corruption Act at Chennai.



2. The Deputy Superintendent of Police,
CCIW (CID),
Chennai.

3. The Public Prosecutor
High Court, Madras 104.

+1 CC to Mr.R.Marudhachalamurthy, Advocate sr 14075.

Cr1.O.P.No.4172 of 2022 and
Cr1.M.P.No.2076 of 2022

MT (CO)
SP (24/03/2022)