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CrI.O.P.No.29819 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2022

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

CrI.O.P.No.29819 of 2022

&

CrI.M.P.No.18270 of 2022

L. Thirugnanam

.. Petitioner

Vs

State, represented by
the Sub-Inspector of Police,
Central Crime Branch, Team-1,
Vepery, Chennai 600 007.

.. Respondent

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records and to set aside the order passed by the learned Metropolitan Magistrate for exclusive trial of CCB cases and CBCID Metro, Egmore, Chennai in CrI.M.P.No.18 of 2022 in C.C.No.4540 of 2018, dated 28.09.2022.

For Petitioner : Mr.K. Kannan

For Respondent : Mr.S.Santhosh,

Govt. Advocate (crl.side)



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ORDER

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This Criminal Original Petition is filed to set aside the order passed by the learned Metropolitan Magistrate for exclusive trial of CCB cases and CBCID Metro, Egmore, Chennai in Crl.M.P.No.18 of 2022 in C.C.No.4540 of 2018, dated 28.09.2022.

2. The learned counsel for the petitioner submitted that the petitioner is a sole accused in C.C.No.4540 of 2018 pending on the file of Metropolitan Magistrate for exclusive trial of CCB Cases and CBCID Metro cases, Egmore, Chennai. He has been charged for the offences punishable under sections 406 and 420 of IPC. Pending trial in the above said calender case, he has filed a petition in Crl.M.P.No.18 of 2022 in CNR.No.TNHOF-000019-2022 seeking to recall the witnesses PW1 to PW8 for cross examination, but the learned Magistrate dismissed the said petition. Aggrieved over the same, this Criminal Original Petition has been filed.

3. The learned counsel for the petitioner submitted that due to covid pandemic, he was not able to cross examine the witnesses PW1 to PW8;



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however, the learned Magistrate had chosen to dismiss his petition on the ground that the petitioner had only adopted delaying tactics by dragging the proceedings; in the interest of justice, the petition should be allowed and opportunity to cross examine PW1 to PW8 should be granted

4. Heard the learned Govt. Advocate (crl.side) appearing for the respondent.

5. On perusal of records, it is seen that during the course of trial, the petitioner has failed to recall the witnesses and only when the matter was posted for questioning the petitioner under section 313 Cr.P.C., the petitioner has filed the petition for recalling witnesses. The learned Magistrate felt that the petitioner had not co-operated for early disposal and there is a delay on his part and he has not availed the opportunity to cross examine the witnesses, when it was available to him. Though the reasons stated by the learned Metropolitan Magistrate is correct, without the cross examination, the case cannot be appreciated effectively. Hence, in the interest of justice, I feel an opportunity can be given to the petitioner to cross examine the witnesses .



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The hardship caused to the witnesses and delay caused also cannot be ignored

and hence, the petitioner should be ordered to pay cost.

6. The records would show that PW5 is a witness for confession; PW6 is the Sub Registrar Officer who had issued the encumbrance certificate; PW7 is another Sub Registrar who had issued certified copies of the documents. Since they are not the material witnesses, there is no necessity to recall PW5, 6 and 7.

7. For the reasons stated above, this petition is allowed and the order of the learned Metropolitan Magistrate for exclusive trial of CCB cases and CBCID Metro, Egmore, Chennai in Crl.M.P.No.18 of 2022 in C.C.No.4540 of 2018 is set aside and the order in Crl.M.P.No.18 of 2022 is modified by partly allowing to recall PWs.1, 2, 3, 4 and 8 on payment of a cost of Rs.750/- (Rupees seven hundred and fifty only) each. The petitioner shall cross examine the witnesses in one and the same day when they are present, without making them to wait in the lobby unnecessarily by passing over the matter. The cost shall be paid to the witnesses before the commencement



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of cross examination. Failing to comply the above condition imposed would automatically deprive the petitioner from getting benefit of this order.

Consequently, the connected miscellaneous petition is closed.

02.12.2022

msr

To

1. The Sub-Inspector of Police,
Central Crime Branch, Team-1,
Vepery, Chennai 600 007.

2. The Public Prosecutor,
High Court, Madras.

Note: Issue copy on 5.12.2022



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R.N.MANJULA, J.

msr

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