



Crl.O.P.No.9457 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATE : 01.04.2025

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.9457 of 2025

and

Crl.M.P.No.6253 of 2025

A.Sezhian

... Petitioner/Accused

Versus

State Represented by

The Inspector of Police,

Vigilance and Anti-Corruption,

Chennai City II Detachment,

(V & AC Crime No.10/AC/2014/CC II)

... Respondent

PRAYER: Criminal Original Petition filed under Section 528 of BNSS praying to call for the records relating to the order dated 11.03.2025 made in Crl.M.P.No.16 of 2025 in Spl.C.No.11 of 2015 on the file of the Special Judge/Chief Judicial Magistrate, Chengalpattu and set aside the same and further prayed to cross examine the witness in PW7.

For Petitioner : Ms.A.Pamila
for Mr.P.Nethaji

For Respondent : Mr.S.Udaya Kumar
Government Advocate (Crl. Side)



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ORDER

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The petitioner/accused, who is facing trial in Spl.C.No.11 of 2015 for the offences under Sections 7, 13(2) r/w 13(10)(d) of the Prevention of Corruption Act, had filed a petition under Section 311 of Cr.P.C. in Crl.M.P.No.16 of 2025 to recall PW7/Trap Laying Officer for cross examination. The trial Court, by the order dated 11.03.2025 dismissed the same, against which, the present petition.

2.The contention of the learned counsel for petitioner is that PW7/TLO cross examined in part on 04.07.2023 and the case was adjourned for continuation of cross examination on 10.07.2023. Thereafter, there was a change of counsel and the new counsel without verification filed a petition under Section 311 of Cr.P.C. in Crl.M.P.No.9 of 2024 to recall PW1, PW2 and PW7 for cross examination and the same was dismissed by the trial Court on 16.12.2024 finding that PW1, PW2 and PW7 were already examined and the reason that the new counsel entered appearance and the witnesses are to



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be examined in detail is not an acceptable one. The said order was challenged

before this Court in Crl.O.P.No.1012 of 2025 and the same was dismissed on 20.01.2025.

3.Again the petitioner filed a petition under Section 311 of Cr.P.C. in Crl.M.P.No.16 of 2025 to recall PW7 for cross examination. The trial Court, by the order dated 11.03.2025 observed that based on the dismissal order passed by this Court in Crl.O.P.No.1012 of 2025, the present petition to recall PW7 is dismissed. This may not be proper for the reason that the continuation of cross examination of PW7 was permitted on 04.07.2023 and thereafter PW7/TLO could not be produced but the case proceeded. The new counsel due to oversight wrongly included the prayer to recall PW7 along with PW1 and PW2. This Court without going in detail, finding that the trial is pending from the year 2015 and more than 9 years have passed and already PW1 and PW2 cross examined and PW7 also cross examined, dismissed the petition and directed the trial Court to complete the trial within a period of six

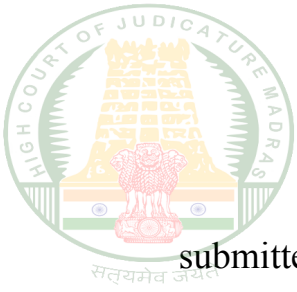


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months. She further submitted that the order granting permission to the petitioner to further cross examine PW7 not set aside and hence, the petitioner may be permitted to further cross examine PW7.

4.The learned Government Advocate fairly submitted that in this case PW7/TLO was cross examined in part on 04.07.2023 and thereafter the petitioner filed a petition seeking for further cross examination of PW7 and the case left at that stage and subsequently fresh petition filed and dismissed and it was adjudicated before this Court and this Court finding that the case is pending for more than 9 years, dismissed the petition as regards PW7. He fairly submitted that the petitioner was earlier granted permission for further cross examination of PW7, thereafter, the petitioner not cross examined. He further submitted that now the case is at the final stage for the examination of Investigating Officer/PW8. It is further submitted that on 17.03.2025, the trial Court for continuation of the evidence of PW8/Investigating Officer posted the case to 24.03.2025. Thereafter it is now posted to 07.04.2025. He further



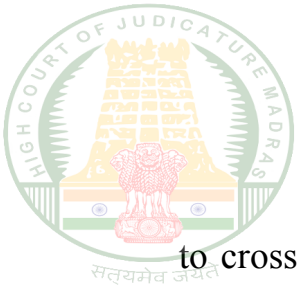
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submitted that PW7/TLO is serving in Chennai and the TLO can appear before the trial Court on 07.04.2025, on which day the cross examination of PW7 to be completed without delay and thereafter to proceed with the case.

5.The learned counsel for petitioner on instructions undertakes that the petitioner would cross examine PW7 on the day of his appearance on 07.04.2025 or any other day without seeking further adjournments. On completion of cross examination of PW7, petitioner will cross examine the Investigating Officer/PW8 without delay and he will not be a reason for any further delay.

6.Considering the submissions made, in all fairness the cross examination of PW7/TLO was done on 04.07.2023 and thereafter it was adjourned for continuation of cross examination of PW7. This was not completed. In the interest of justice, in order to give an opportunity of fair trial, the order passed by the trial Court in Crl.M.P.No.16 of 2025 in Spl.C.No.11 of 2025 dated 11.03.2025 is set aside. The petitioner is directed



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to cross examine PW7 on the date of his appearance, i.e., on 07.04.2025 or

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any subsequent date. The petitioner not to seek any further adjournments for any reason. The trial Court is directed to complete the trial in Spl.C.No.11 of 2025 without further delay.

7.With the above direction, the Criminal Original Petition is allowed. Consequently, the connected criminal miscellaneous petition is closed.

01.04.2025

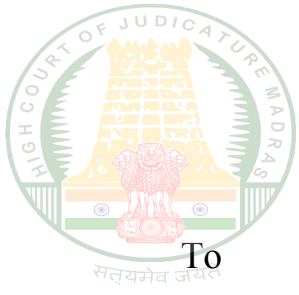
Index : Yes / No

Internet : Yes/No

Speaking / Non-speaking order

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Note: Issue order copy on 04.04.2025



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To

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- 1.The Inspector of Police,
Vigilance and Anti-Corruption,
Chennai City II Detachment,
- 2.The Special Judge/Chief Judicial Magistrate,
Chengalpattu.
- 3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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