



WEB COPY

Pownraj

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2021

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.25212 of 2021

in Crl. MP. No.13949 of 2021

...Petitioner

Versus

State rep. by
The Inspector of Police,
EOW-II, Erode District.
(Crime No.5 of 2012)

...Respondent

Prayer: This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code praying to set aside the order passed in Crl.M.P. No.2255/2021, on the file of learned Special Judge, Special Court under TNPID Act, Coimbatore.

For Petitioner : Mr.S.Karthikei Balan

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

O R D E R

This Original Petition has been filed to quash the order passed in Crl.M.P. No.2255 of 2021, on the file of learned Special Judge, Special Court under TNPID Act, Coimbatore.

2. The grievance of the petitioner is that the petitioner has been arrayed as A6 in C.C. No.20 of 2012 for the offence under Sections 120 (b), 406, 420 of IPC and Section 5 of TNPID Act, 1997 on the file of the learned Special Judge, TNPID Act Cases, Coimbatore. He was not arrayed as accused earlier, he was later brought in as accused No.6 with the aid of Section 319 of Cr.P.C.

3. The petitioner submitted that after implicating him as accused No.6, a memo dated 05.10.2017 filed seeking for re-examination of all the witnesses afresh but the same was dismissed by the trial Court on 20.02.2018. Challenging against the said dismissal order, he has approached this Court in filing a petition in Crl.O.P.7076 of 2018. This Court vide its order dated 18.12.2021 finding that there are totally 277 witnesses examined by the trial Court, out of which, 66 witnesses were permitted to be recalled and examined afresh as per the names and details given in the Petition. The petitioner added an



accused under Section 319 of Cr.P.C claimed de novo trial considering the change and overt act, this Court directed the trial Court to examine 66 witnesses.

4. In the order dated 18.12.2021, witness No.262 left out, though P.W.262 name mentioned in the petition. This was brought to the notice of this Court, thereafter amendments made and corrected order was issued including P.W.262. Now the contention of the petitioner is that out of 66 witnesses 65 witnesses summoned except P.W.262, since in the initial order P.W.262 was not included. The trial Court not taking note of the corrected order, insisting to follow the earlier order, wherein P.W.No.262 was not included as a witness, only in the web order P.W.262 is mentioned. Because of this anomaly, the trial Court permitted the petitioner to examine other witnesses afresh except P.W.262. Hence the above petition.

5. The petitioner submits that P.W.262 is a crucial witness who connects the petitioner with the case. Hence chief examination and cross examination have to be done carefully, the petitioner to put forth his case to extricate himself from the case, fresh examination of P.W.262 is necessary. He further apprehends that the case is posted for trial on 30.12.2021 for further hearing, on which date P.W.262 will be permitted to be cross-examination alone and the trial Court will not permit examination of P.W.262 afresh, record chief examination and thereafter to cross examine P.W. 262.

6. The petitioner with the aid of Section 319 of Cr.P.C arrayed as accused No.6 is not in dispute. Hence, in the interest of justice, this Court is inclined to direct the trial Court to examine P.W.262 afresh, record chief examination, thereafter permit the petitioner to cross examine him.

7. With the above direction, this Criminal Original Petition is disposed of accordingly.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

rkp



To

1.The Special Judge,
Special Court Under TNPID Act,
Coimbatore.

2.The Inspector of Police,
EOW-II, Erode District.

3.The Public Prosecutor,
High Court, Madras-104.

Crl.O.P.No.25212 of 2021
in Crl. MP. No.13949 of 2021

JPII(CO)
KM(05/01/2022)