

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

ORDERS RESERVED ON 26.04.2022	ORDERS PRONOUNCED ON 17.06.2022
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CRL.O.P.NO.7423 OF 2016
AND
CRL.MP.NO.3896 OF 2016

1. Viswapriya Financial Services
& Securities Ltd.,
Rep. by its Director
Mr.R.Subramanian,
No.2, First Cross Road,
Kasturiba Nagar, Adyar,
Chennai - 600 020.
2. R.Subramanian
3. R.Narayanan
4. R.Rajaratnam

... Petitioners/
Accused 1 to 3 & 5

Vs.

Reserve Bank of India,
Fort Glacis,
Rajaji Salai,
Chennai - 600 001.

... Respondent/
Complainant

PRAYER:

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to set aside the part of the order dated 11.03.2016 passed in Crl.M.P.No.363 of 2016 in E.O.C.C.No.343 of 2009 on the file of the Additional Chief Metropolitan Magistrate, Egmore, Chennai, imposing costs in the above petition.

For Petitioners : Mr.R.Subramanian
Party-in Person

For Respondent : Mr.T.Poornam
Standing Counsel

ORDER

This Criminal Original Petition is filed by the petitioners/A1, A2, A3 & A5 in E.O.C.C.No.343 of 2009 seeking to set aside the order passed in C.M.P.No.363 of 2016 dated 11.03.2016.

2.A petition in C.M.P.No.363 of 2016 filed under Section 311 Cr.P.C. by the petitioners stating that on 07.01.2016 P.W.1 was unable to be cross examined since on that day the petitioner's counsel was hospitalized, thereafter convalescing and hence, P.W.1 be recalled for the purpose of cross examination. The respondent raised objections by stating that the petition was filed to protract the proceedings before the Lower Court, chief examination of P.W.1 was conducted on 15.12.2015, later on it was posted to 07.01.2016 and thereafter failed to cross examine. The Trial Court considering the submissions convinced that an opportunity to be given to the accused to cross examine the witness, allowed the petition with a condition that the petitioners to deposit a sum of Rs.15,000/- by cash on or before 24.03.2016 towards the travelling expenses of the witness [P.W.1]. Against which, the present petition is filed.

3.The primary ground raised by the petitioners is that on what basis the cost of Rs.15,000/- imposed for the purpose of recalling the witness.

4.The learned Standing Counsel appearing for the respondent/complainant submitted that though the Trial Court passed an order on 11.03.2016 permitting the petitioner to recall P.W.1 subject to payment of cost, till date the petitioners failed to deposit the cost amount of Rs.15,000/- and on the other hand, filed the above petition. He further submitted that the petitioners also filed discharge petition in Crl.M.P.No.2988 of 2016 which was dismissed by the Trial Court, against which the petitioners filed Crl.R.C.No.409 of 2017 and the same was also dismissed by this Court. He further submitted that by filing a discharge petition, the petitioners forfeited their right to cross examine their witness prior to framing the charges and in any event, the petitioners would have another chance for cross examination under Section 246 Cr.P.C. Hence, he prays for dismissal of this Petition.

5.At this stage, the petitioners filed a memo stating that the petition under Section 311 Cr.P.C. was filed at pre-charge

stage, now charges were framed against the petitioners on 12.04.2022, the case moved to the next stage and in view of the same, this petition become infructuous and cannot be proceeded with.

6. Recording the same, this Court is inclined to dismiss this petition finding that there is no merit in the contention of the petitioners and also in view of the subsequent development. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

cse

To

1. The Additional Chief Metropolitan Magistrate,
Egmore, Chennai.
2. Reserve Bank of India,
Fort Glacis,
Rajaji Salai,
Chennai - 600 001.

Cr1.O.P.No.7423 of 2016

GP(CO)
PM/13/07/2022