

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2022

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Cr1.O.P.No.14607 of 2022

and

Cr1.M.P.No.8089 of 2022

Pownraj

...Petitioner/Accused No.6

Vs.

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

...Respondent/Complainant

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the questioning under Section 313 (1) of Cr.P.C. dated 08.11.2021 in C.C.No.20 of 2012 on the file of the learned Special Judge, Special Court under TNPID Act, Coimbatore.

For Petitioner : Mr.S.Karthikei Balan

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to set aside the questioning under Section 313(1) of Cr.P.C. dated 08.11.2021 in C.C.No.20 of 2012 on the file of the learned Special Judge, Special Court under TNPID Act, Coimbatore.

2.The learned counsel appearing for the petitioner submitted that the petitioner has been arrayed as an accused after 3 years of institution of this case, based on the petition filed under Section 319 Cr.P.C. by the respondent police. On earlier occasion he had sought for de novo trial by filing a memo dated 05.10.2017. But the same was dismissed by the trial Court on 20.02.2018. Thereafter, since the prosecution had already examined 277 witnesses in this case, he sought to examine only 66 witnesses afresh which was allowed by this Court in O.P.No.7076 of 2018 by order dated 18.12.2018. The further submission is that now out of 66 witnesses examined afresh after the petitioner is arrayed as an accused in this case, only 27 witnesses have incriminated the petitioner. When the matter

stood so, during the questioning under Section 313 Cr.P.C., the learned Special Judge instead of putting only incriminating questions, had put all other questions spoken by other witnesses. Therefore, his contention is that the very questioning itself is not according to the Section 313 Cr.P.C. and the same is liable to be set aside. Therefore, he seeks to quash the entire questioning and to direct the trial Court to redo the exercise once again.

3.This Court after perusing the records, unable to accept the contention of the learned counsel for the petitioner. If at all a general question is put under Section 313 Cr.P.C. against the accused, the same will not prejudice the accused in any manner. No doubt, the provisions of Section 313 Cr.P.C. provides to put all the circumstances which are incriminating against the accused. But at the same time, merely because unincriminating circumstances are also put to the accused that may not be a ground to quash the entire questioning under Section 313 Cr.P.C. What is relevant is only circumstances which are relevant and which are to be put to the accused. Unless such incriminating material put to the accused, the trial court cannot consider such circumstances against the accused. The learned counsel for the petitioner submitted that out of 66 witnesses examined afresh, only 27 witnesses have given incriminating evidence against the petitioner. As such it is not the case of the petitioner that those incriminating materials spoken by witnesses were not put to the accused. As such merely because the other circumstances are also put to the accused in 313 Cr.P.C. questioning, there is no prejudice caused to the accused. Hence, this Court is of the view that the entire proceedings cannot be quashed.

4.The trial Court shall also take note of the very object of Section 313 Cr.P.C. that wherever incriminating questions are put to the accused, that alone to be considered and can be used against the accused.

5.With the above observations, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

To

1. The Special Judge,
The Special Court under TNPID Act,
Coimbatore.
2. The Inspector of Police
EOW-II
Erode District
3. The Public Prosecutor
High Court, Madras

+1cc to Mr.S.Karthikei Balan, Advocate, S.R.No.39708

Crl.O.P.No.14607 of 2022
and
Crl.M.P.No.8089 of 2022

SKM(CO)
RGA(14/07/2022)