



*Crl.O.P.No.31090 of 2022
and Crl.MP.No.19055 of 2022*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2022

CORAM:

THE HON'BLE Ms.JUSTICE **R.N.MANJULA**

Crl.O.P.No.31090 of 2022

and

Crl.MP.No.19055 of 2022

1. Nila @ Nilavurajan
2. Nithiyanantham

... Petitioners

Vs.

The State represented by
Inspector of Police,
Walajapet Police Station,
Ranipet District.
(Crime No.438/2016).

... Respondent

Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to set aside the order dated 20.10.2022 passed by the learned 2nd Additional District and Sessions Judge, Vellore @ Ranipet in CMP.No.232 of 2022 in S.C.No.141 of 2018 and consequently allowing the said petition filed by the petitioners under Section 311 of Cr.PC for recall and further cross examination of PW-4, PW-5, PW-6 and PW-8.

For Petitioners : Mr.M.Ravichandran

For Respondent : Mr.S.Santhosh,
Govt. Advocate (Crl.Side)



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ORDER

This Criminal Original Petition has been filed challenging the order of the learned II Additional District and Sessions Judge, Vellore @ Ranipet dated 20.10.2022 made in CMP.No.232 of 2022 in S.C.No.141 of 2018.

2. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.Side) appearing for the respondent.

3. The petitioners are the accused 1 & 2. A petition has been filed under Section 311 of Cr.P.C to recall PW-4, PW-5, PW-6 and PW-8 and the same was dismissed on 20.10.2022. Aggrieved over this, the present petition has been filed by the petitioners.

4. The learned counsel for the petitioners submitted that the petitioners were not aware of the motive for implicating them in this case; the prosecution witnesses were cross-examined earlier; since they came to know certain vital facts only at a later point of time, it is essential to recall the above witnesses and they should be allowed to be cross-examined further; the learned Magistrate without considering the merits of the submissions of the petitioners,



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had chosen to dismiss the petition.

5. The learned Government Advocate (Crl.Side) appearing for the respondent submitted that the petitioners had given with sufficient opportunity to cross-examine all the witnesses and cross-examination has also been done at length. At this stage, the petition under Section 311 of Cr.P.C filed by the petitioners is just to drag the proceedings, in a matter which had attained the stage of 313 questioning.

6. On perusal of the records, especially the averments of the petitioners in the petition, they have stated that he came to know from his friend one Rafiq that PW-4 had demanded Rs.50.00 lakhs from the petitioners and when they refused to pay the said money, they influenced to implicate the petitioners in this case. The petitioners have filed the petition to recall PW-4, PW-5, PW-6 & PW-8 only for cross-examining them in this aspect.

7. The learned counsel for the petitioners submitted that they came to know about the demand made by PW-4 only subsequent to the conclusion of trial from his friend one Rafiq, but the averments of the petition would show that the alleged demand made by PW-4 for money was refused. If the petitioners did not have the knowledge about the alleged demand, it is not



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possible for them to refuse the same. Hence, the petitioners have come up with certain reasons just to drag the proceedings, when they have already granted sufficient opportunity to cross examine the above mentioned witnesses. The learned Magistrate has rightly dismissed the petition by taking into consideration of the sufficient opportunity already given to the petitioners. Since there is absolutely no reason to recall the aforesaid prosecution witness, the order of the learned Magistrate does not call for any interference.

8. This Criminal Original Petition is dismissed. Consequently, connected Miscellaneous petition is closed.

16.12.2022

Index: Yes/No

Speaking / Non Speaking Order

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To

1. The Inspector of Police,
Walajapet Police Station,
Ranipet District.

2. The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA, J.

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