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Crl.O.P.Nos.26590 to 26592 of 2016 etc.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.Nos.26590 to 26592 of 2016,
752 to 755 of 2017, 27083 & 27084 of 2018
and Crl.M.P.Nos.13334 to 13339 of 2016,
542 to 549 of 2017 & 15630 to 15633 of 2018

Crl.O.P.No.26590 of 2016 :-

1. V.P.S.Santhakumar
2. Jothi
3. Vijayaraj

...Petitioners

-Vs-

The State rep
The Inspector of Police (EOW),
Central Crime Branch,
Egmore, Chennai.

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the order of adjudication in C.C.No.9699 of 2002 on the file of the Chief Metropolitan Magistrate, Allikulam, Chennai, and direct further supply of document and allow the defence counsel to do the cross examination of the witnesses.

In all Crl.O.Ps.

For Petitioners : Mr.R.Loganthan

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.Side)



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COMMON ORDER

The Criminal Original Petitions in Crl.O.P.Nos.27083 &

27084 of 2018 have been filed challenging orders dated 20.09.2018 & 22.10.2018 passed by the learned Chief Metropolitan Magistrate, Allikulam, Chennai, in Crl.M.P.Nos.2226 of 2018 & 7494 of 2016 respectively, thereby dismissing the petitions filed under Section 311 of Cr.P.C., to recall the prosecution witnesses. Other petitions have been filed challenging the the order of adjudication in C.C.No.9699 of 2002, while examining the prosecution witnesses by the trial Court.

2. The petitioners are accused in C.C.No.9699 of 2002 on the file of the learned Chief Metropolitan Magistrate, Allikulam, Chennai. On the complaint lodged by the defacto complainant, FIR has been registered in Crime No.553 of 1997 on the file of the respondent police, under Sections 409, 420, 506 (II) of IPC as against the petitioners. The allegations are that the accused persons had collected more than Rs.3,50,00,000/- from 1492 victims by way of deposit and thereafter they failed to return the same.



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3. After completion of investigation, the respondent police filed final report and the same has been taken cognizance by the trial Court in C.C.No.9699 of 2002. While pending trial, the petitioners filed petitions under Section 311 of Cr.P.C., to recall the prosecution witnesses for cross examination. Since the trial Court dismissed the petitions, the petitioners filed the present petitions in Crl.O.P.Nos.27083 & 27084 of 2018.

4. Heard the learned counsel appearing on either side and perused the material placed before this Court.

5. On perusal of records revealed that during trial, the prosecution had examined 30 witnesses. However, the petitioners did not cross-examine them for the reasons best known to them, though they were given enough opportunity to cross examine the witnesses. Thereafter, the petitioners filed petitions under Section 311 of Cr.P.C., to recall the prosecution witnesses to cross examine them, that too after the period of 15 years. It is nothing but to stall the proceedings and as such the trial Court rightly dismissed the petitions.



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6. In fact, already this Court as well as the Hon'ble Supreme Court of India directed the trial Courts to complete the trial in the cases which were pending more than five years without any further delay. The present case is of the year 2002 and it is pending for the past 21 years. Therefore, this Court finds no infirmity or illegality in the order passed by the trial Court in Crl.M.P.Nos.2226 of 2018 & 7494 of 2016.

7. The other petitions are filed challenging the adjudication while examining the prosecution witnesses. While examining the prosecution witness, the prosecution marked the deposit receipts. However, it was objected by the petitioners. The trial Court accepted the reasons given by the prosecution and marked the same thereby rejected the objections raised by the petitioners. Further the petitioners objected to mark the fixed deposit receipts, since they were received at the time of furnishing copy as contemplated under Section 207 of Cr.P.C.

8. The learned counsel appearing for the petitioners submitted that the accused persons must serve with copies of documents which are relied upon by the prosecution. He also relied upon the judgment reported in **2021 (10) SCC 598** in the case of **RE vs. State of Andhra**



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Pradesh & Ors., in which, the Hon'ble Supreme Court of India framed guidelines and also gave procedures to be followed by the trial Courts.

Accordingly, free copies to be furnished under Section 207 of Cr.P.C.

9. On perusal of records revealed that all the documents were already furnished to the petitioners under Section 207 of Cr.P.C. In order to stall the proceedings, the petitioners now challenged the adjudication order before this Court. Therefore, the judgement cited by the learned counsel appearing for the petitioner is not applicable to the case on hand. This Court finds no infirmity or illegality in the adjudication order passed by the trial Court and the present petition is liable to be dismissed. However, the trial Court is directed to proceed with the case in accordance with law.

10. Accordingly, all the Criminal Original Petitions are dismissed. Consequently, connected miscellaneous petitions are closed.

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Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
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G.K.ILANTHIRAIYAN. J.

rts

To

1. The Chief Metropolitan Magistrate,
Allikulam, Chennai.
2. The Inspector of Police (EOW),
Central Crime Branch,
Egmore, Chennai.
3. The Public Prosecutor,
Madras High Court,
Chennai.

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