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Crl.OP.No.3471 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.3471 of 2023

1.Sulaimankhan

2.Nazeer

... Petitioners

Vs.

The State

Represented by the Inspector of Police,

Central Crime Branch

(Team – XVIII)

Chennai

... Respondent

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the order passed in Crl.M.P.No.2847 of 2023 in C.C.No.7736 of 2021 dated 25.01.2023 by the learned Chief Metropolitan Magistrate, Chennai.

For Petitioners : Mr.L.Rajasekar

For Respondent : Mr.S.Santhosh

Government Advocate(Crl.side)



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ORDER

This Criminal Original Petition has been filed to set aside the order passed in Crl.M.P.No.2847 of 2023 in C.C.No.7736 of 2021 dated 25.01.2023 by the learned Chief Metropolitan Magistrate, Chennai.

2.The learned counsel for the petitioners submitted that petitioners filed petition under Section 311 Cr.P.C. for recall of P.W.1, P.W.2 and P.W.5 for the purpose of cross examination. P.W.1 and P.W.2 were examined in the year 2012 and 2013 respectively. Citing that P.W.1 and P.W.2 were examined ten years back and this petition is filed only now, the learned Chief Metropolitan Magistrate, Egmore, dismissed the petition. Challenging the said order, this petition is filed.

3.It is the further submission of learned counsel for the petitioners that in 2013, the case was transferred to Anti Land Grabbing Sub Court and that was stayed by the Hon'ble Supreme Court. Only in 2021, this case was transferred to



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the Chief Metropolitan Magistrate, Egmore, and re-numbered as C.C.No.7736 of 2021. The trial commenced thereafter. This is the reason for non cross-examination of P.W.1, P.W.2 and P.W.5.

4.The learned Government Advocate (Criminal side) submitted that P.W.1, P.W.2 and P.W.5 were examined chief on 08.03.2012, 17.01.2013 & 10.03.2022 respectively. There was stay in operation because of the order of the Hon'ble Supreme Court.

5.In the light of the submission made by the learned counsel appearing for parties and that there was a transfer of this case to Anti Land Grabbing, Sub Court, followed by stay of further proceedings in that Court by Hon'ble Supreme Court and thereafter trial had commenced again only in 2021, this Court is of the view that petitioners must be given an opportunity to cross examine P.W.1, P.W.2 and P.W.5. In this view of the matter, order passed in Crl.M.P.No.2847 of 2023 in C.C.No.7736 of 2021 dated 25.01.2023 by the learned Chief Metropolitan Magistrate, Chennai, is set aside. The learned Chief Metropolitan Magistrate, Chennai, is directed to recall P.W.1, P.W.2 and P.W.5



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for the purpose of cross examination of these witnesses. It is made clear that the petitioners should examine these witnesses on the date of their appearance and no adjournment should be sought at any cost.

6. With the above observations and direction, the Criminal Original

Petition stands allowed.

15.02.2023

Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order
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To

1. The Inspector of Police,
Central Crime Branch
(Team – XVIII)
Chennai.

2. The Public Prosecutor,
High Court of Madras, Chennai.



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G.CHANDRASEKHARAN,J.

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