



Crl.RC No.311 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 23.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.RC No.311 of 2023 and
Crl.M.P.No.2575 of 2023

1. Kannan @ Sivachandren
2. Kumar @ Ramkumar
3. Ajay @ Harikrishnan

... Petitioners

Vs.

The State rep. by the Inspector of Police,
Economic Offence Wing, Salem District.
Crime No.8/2015

... Respondent

Prayer: Criminal Revision Petition filed under Section 397 r/w 411 of Cr.P.C. to call for the records and set aside order dated 07.02.2023 passed in Memo in C.C.No.8/2015 on the file of the Special Judge, Special Court under TNPID Act, Coimbatore.

For Petitioners : Mr.S.Sheik Ismail

For Respondent : V.Meganathan,

Govt.Advocate (Crl.Side)



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ORDER

This Criminal Revision Petition has been filed to set aside the order dated 07.02.2023 passed in Memo in C.C.No.8/2015 by the learned Special Judge, Special Court under TNPID Act, Coimbatore.

2. Totally there are 7 accused in the above said C.C.No.8/2015 and the petitioners 1 to 3 herein are A3, A6 and A7. The investigating officer, after completing investigation in Crime No.8/2013, filed a final report against A1 to A3 and it was taken on file as C.C.No.8 of 2015 on the file of the Special Court under TNPID Act, Coimbatore. Subsequently, after getting order for further investigation, the investigating officer filed an additional final report, adding A4 to A7. Thereafter, the case was prosecuted against the accused persons and prosecution witnesses were examined. In such circumstances, the petitioners herein, filed a Memo in C.C.No.8 of 2015 stating that the Court has not taken cognizance of the offence as against them and hence, the procedural lapse of failure to take cognizance is serious irregularity, which caused great prejudice to the petitioners. As such, they pleaded to take judicial note of the same and proceed in the manner known to law. The above Memo was rejected by the learned Special Judge, vide order dated 07.02.2023. Challenging the above order, this Criminal Revision Case has



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been filed.
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3. The learned counsel for the petitioner submitted that, at the time of filing additional final report, the learned Judge ought to have perused the supporting materials collected by the investigating officer and ought to have taken cognizance of the offence, as against these petitioners. However, without taking cognizance of the offence as against the petitioner, the Trial Court proceeded the Trial and completed the examination of witnesses and now the case is posted for argument. Hence, the petitioner filed a memo bringing note of the above fact to the Court and to proceed in the manner known to law. But, the Trial Court without taking note of the irregularity committed in not taking cognizance of the offence against the petitioners, has rejected the memo. Therefore, the impugned order may be set aside.

4. The learned Government Advocate (CrI.Side) submitted that after filing additional final report, the case was prosecuted against the accused persons and witnesses were examined and questioning under Section 313 of Cr.P.C. was also completed and now the case is posted for arguments. He further submitted that, another petition under Section 311 Cr.P.C. is also pending before the Trial Court.



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5. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.Side) and I have perused the materials on record.

6. A perusal of the records show that the petitioners are arrayed as A3 , A6 and A7 in C.C.No.8/2015 and the accused persons were prosecuted for the offence punishable under Sections 120(B), 468, 471, 419 and 420 IPC and Section 5 of TNPID Act r/w 120B IPC. According to the petitioners, in pursuant to the additional final report, the learned Special Judge has to take cognizance against the petitioners, however, without written order for the same, the learned Special Judge summoned the petitioners; framed charges against them and examined the prosecution witnesses. It is the contention of the petitioners that, if the learned Special Judge took cognizance of the offence against the petitioners, they would have been exonerated from facing Trial.

7. It is to be noted that, though the learned Special Judge is not warranted to pass any judicial order on the memo filed by the petitioners, he passed the impugned order, rejecting the Memo, which is unsustainable. However, the memo itself is not maintainable on the ground that the petitioners have not challenged any criminal proceedings in a way known to



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law. Upon filing a Memo, the petitioners cannot challenge either taking of cognizance or recording further evidence in the above case. The Code of Criminal Procedure is a Procedural law, like all Procedure Law, designed to further ends of justice and not to frustrate them by encouraging technicalities. The primary object of the Code is to ensure an accused person gets a full and fair Trial according to the well settled principles of Law and in consonance with the principles of natural justice. Therefore, this Court is of the view that that the present revision case is not maintainable, as it has no merits.

8. Accordingly, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed. However, liberty is granted to the petitioners to redress the grievance, in the manner known to law.

23.02.2023

Note: Issue order on 23.02.2023

Index:Yes/No
Internet:Yes/No
mst

To

The Special Judge, Special Court under TNPID Act, Coimbatore.



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V.SIVAGNANAM, J.

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