



Crl.O.P.No.15737 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2023

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.15737 of 2023

and

Crl.M.P.No.9809 of 2023

Murugesan
S/o.Subbaiah

... Petitioner

-Vs-

State rep. by
The Inspector of Police,
Central Crime Branch, EFT - III,
Team - 4, Vepery,
Chennai 600 007.

...Respondent

Prayer: Criminal Original petition filed under Section 482 of Cr.P.C.,
pleased to set aside the order dated 07.06.2023 in Crl.M.P.No.12589 of
2021 in C.C.No.6536 of 2015 on the file of Special Metropolitan
Magistrate to try the cases under Central Crime Branch and CBCID,
Egmore, Chennai 600 008.

For Petitioner : Mr.R.Loganathan

For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor



Crl.O.P.No.15737 of 2023

WEB COPY

ORDER

This Criminal Original Petition has been filed challenging the order passed by the Special Metropolitan Magistrate to try cases under Central Crime Branch and CBCID, Egmore, Chennai - 600 008 in Crl.M.P.No.12589 of 2021 in C.C.No.6536 of 2015, dated 07.06.2023, dismissing the application filed by the petitioner u/s.91 Cr.P.C.

2. The petitioner is facing trial before the Court below for offences u/s.409, 420, 465, 468 and 471 IPC. The petitioner filed an application in Crl.M.P.No.12589 of 2021 in C.C.No.6536 of 2015 u/s.91 Cr.P.C. for issuing summons to the persons/authorities to produce documents on the date of hearing. This petition came to be dismissed by the Court below and aggrieved by the same, the present petition has been filed before this Court.

3. Heard Mr.R.Loganathan, learned counsel for petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor appearing for respondent.



Crl.O.P.No.15737 of 2023

4. The main grievance that was expressed by learned counsel for petitioner is that the documents that have been filed before the Court below are all photocopies of bank statements, cheques and transfer applications and those documents have not been certified as required under Section 85 of the Bankers Books Evidence Act, 1891. Therefore, according to the petitioner, either the original documents will have to be filed before the Court or the concerned authorities, who are in charge of the documents should be summoned and directed to produce the documents. In the absence of the same, the petitioner cannot effectively defend himself in the case.

5. This Court carefully went through the order passed by the Court below. The Court below, after taking into consideration the list of witnesses, who are going to be examined in this case and also the nature of documents that are going to be marked, has made it clear that the concerned witness in whose possession the original documents are available, are going to be examined in Court and at the relevant point of time, the petitioner can always put necessary questions and if required,



Crl.O.P.No.15737 of 2023

can also call for the original documents. Hence, the Court below found that the petitioner will have sufficient opportunity to defend himself and it is not as if the petitioner is going to be denied a right by putting against him the copies of the documents, which according to the petitioner are not properly authenticated. This safeguard provided by the Court below will sufficiently protect the interest of the petitioner. This Court does not find any ground to interfere with the order passed by the Court below. This Court is merely reiterating the finding of the Court below to the effect that the petitioner can always put necessary questions to the concerned witnesses and if required, also seek for furnishing the original documents. It is also left open to the petitioner to record his objections, if in case, the copies of the documents are marked without proper authentication.

In the result, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

13.07.2023

Index : Yes/No



Crl.O.P.No.15737 of 2023

Internet: Yes/No
gm

To

- 1.The Special Metropolitan Magistrate
[Central Crime Branch and CBCID],
Egmore, Chennai 600 008.
- 2.The Inspector of Police,
Central Crime Branch, EFT - III,
Team - 4, Vepery,
Chennai 600 007.
- 3.The Public Prosecutor,
Madras High Court.



WEB COPY



Crl.O.P.No.15737 of 2023

N.ANAND VENKATESH, J.

gm

Crl.O.P.No.15737 of 2023

13.07.2023