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Crl.O.P.No.23722 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :25.07.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.23722 of 2022

1.K.Rajan
2.V.Elumalai

... Petitioners

Vs.

State rep. By
The Inspector of Police,
CCB, EDF Team-III,
Vepery, Chennai – 600 007.

... Respondent

Prayer : This Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records in connection with Crl.M.P.No.1206 of 2021 in C.C.No.928 of 2014 dated 26.07.2022 pending on the file of Judicial Magistrate-I at Alandur and the same may be set aside.

For Petitioners : Mr.T.Arul

For Respondent : Mr.A.Gopinath
Government Advocate [Crl. Side]



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ORDER

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This petition has been filed challenging the order passed by the Court below dismissing the application filed under Section 311 of Cr.P.C. for recalling P.W.1 to P.W.3 for cross examination.

2.Heard Mr.T.Arul, learned counsel appearing for the petitioners and Mr.A.Gopinath, learned Government Advocate [Crl. Side] appearing for the respondent.

3.The petitioners [A2 and A3] are facing trial before the Court below for the offence under Sections 406, 420, 465, 468, 471, 474 and 120(b) of IPC.

4.P.W.1 to P.W.3 were examined in chief on 23.10.2019, 24.02.2020 and 09.12.2020 respectively. Thereafter, the Court was not properly functioning due to the Pandemic. Ultimately, the petitioners filed an application under Section 311 of Cr.P.C. for recalling P.W.1 to P.W.3 for cross examination on 11.01.2021. This application came to be dismissed



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by the Court below by an order dated 26.07.2022. Aggrieved by the same, the present petition has been filed before this Court.

5.In the considered view of this Court, the petitioners must be given an opportunity to cross examine P.W.1 to P.W.3. They had filed an application immediately after the Pandemic period and it came to be disposed of much later only during July 2022. That cannot be put against the petitioners.

6.The learned Government Advocate [Crl. Side], on instructions, submitted that the case is posted for hearing on 03.08.2023 for examination of L.W.6 and L.W.8.

7.The order passed by the Court below in Crl.M.P.No.1206 of 2021 dated 26.07.2022 is hereby set aside. The Court below shall fix a date for the appearance of P.W.1 to P.W.3 and on the date of their appearance, the petitioners shall cross examine all the three witnesses and it shall be completed on the same day. That apart, the petitioners shall also pay a cost



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of Rs.1,000/- [Rupees One Thousand only] to each of the witnesses viz., P.W.1 to P.W.3 on the date of their appearance. That apart, the petitioners shall also cross examine the other witnesses examined on the side of the prosecution on the same day they are examination-in-chief. If the petitioners do not comply with the directions given by this Court, the petitioners will loose their right to recall P.W.1 to P.W.3 for cross examination.

8.This Criminal Original Petition is accordingly allowed and there shall be a direction to the Court below to complete the proceedings in C.C.No.928 of 2014 within a period of three months from the date of receipt of a copy of this order.

25.07.2023

Index :Yes/No
Internet:Yes
Speaking Order/Non-speaking Order
cse



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To

- 1.The Inspector of Police,
CCB, EDF Team-III,
Vepery, Chennai – 600 007.
- 2.The Judicial Magistrate-I,
Alandur
- 3.The Public Prosecutor,
Madras High Court,
Chennai.



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N.ANAND VENKATESH,J.

cse

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