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C.R.L.O.P.No.22570 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2023

CORAM

THE HON'BLE DR.JUSTICE G. JAYACHANDRAN

C.R.L.O.P.No.22570 of 2023

and

C.R.L.M.P.No.15786 of 2023

1. Appur @ Thalapathi
2. Ranjith @ Ranjithkumar
3. Sella @ Selva
4. Vinoth
5. Elaya @ Elayakumar
6. Katturaja
7. Appanraj
8. Ammu

... Petitioners

VS

The State
rep.by the Inspector of Police,
K-7, ICF Police Station
ICF, Chennai
(Crime No.276 of 2013)

... Respondent

Prayer:-Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed in CrI.M.P.No.10041 of



C.R.L.O.P.No.22570 of 2023

2023 in S.C.No.210 of 2016 by the XVIII Addl. City Civil Judge, Chennai dated 28.08.2023 with regard to dismissal of the petition to cross-examine of PW9, PW11 & PW12 and further cross-examine PW10.

For Petitioners : Mr.K.Balaji
For Respondent : Mr.S.Udaya Kumar
Govt.Advocate (Crl.Side)

ORDER

The petitioner along with eight others were tried for offences under Section 302 IPC. The case was conducted by the Sessions Court and taken on file as S.C.No.210 of 2016 on the file of the XVIII Additional City Civil Court, Chennai.

2. The examination of prosecution witness was completed on 22.12.2020. Thereafter, the accused had filed a petition under Section 311 Cr.P.C. to recall PW9, PW10, PW11 and PW12. These witnesses were examined between 08.04.2021 and 04.04.2022.

3. The petition to recall was filed on 25.08.2023 after one year of the complaint for examining the prosecution witnesses and for Section 313 Cr.P.C questioning.



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4. The trial Court, after considering the reasons stated for recalling the witnesses and the delay in filing the petition Section under 311 Cr.P.C., had dismissed the recall petition.

5. The learned counsel appearing for the petitioner submitted that these witnesses have suspicion about the incident and the eye witnesses in prosecution of the witnesses will be false and therefore the accused should be permitted to recall the prosecution witnesses for fair trial.

6. It is a serious murder involving nine accused and the trial has been prolonged for nearly ten years and the trial Court had rightly dismissed as frivolous.

7. Hence, this Court finds that there is no plausible reason given by the accused to recall the witnesses again. Though the learned counsel for the petitioner states that he will pay costs for the witnesses, they cannot be subjected to harassment by recalling them unnecessarily.



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In the result, this criminal original petition is dismissed. Connected miscellaneous petition is closed.

09.10.2023

Index : Yes/No
Speaking : Yes/No
Neutral Citation : Yes/No

vca

To:

1. The Judge XVIII Addl. City Civil Judge, Chennai.
2. The Public Prosecutor, High Court of Madras.
3. The Inspector of Police,
K-7, ICF Police Station
ICF, Chennai.



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DR.G. JAYACHANDRAN, J.
vca

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