



Crl.R.C.No.1543 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2023

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THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.R.C.No.1543 of 2022

and

Crl.M.P.No.18729 of 2022

V.Gunasekaran

... Petitioner

Vs.

The State represented by,
The Deputy Superintendent of Police,
CCIW, (CID),
Chennai.

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 & 401 of Cr.P.C., pleaded to set aside the order passed in Crl.M.P.No.928 of 2022 in C.C.No.91 of 2011 dated 07.10.2022 on the file of the Special Court for the Cases Under Prevention of Corruption Act at Chennai by allowing this criminal revision petition.

For Petitioner : Mr.R.Marudhachalamurthy

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)



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ORDER

This Criminal Revision has been filed against the dismissal order passed in Crl.M.P.No.928 of 2022 dated 07.10.2022, in C.C.No.91 of 2011, by the learned Special Court for the cases under Prevention of Corruption Act, Chennai.

2. The petitioner is arrayed as an accused/A7 in C.C.No.91 of 2022, pending on the file of the learned Special Court for the cases under Prevention of Corruption Act, Chennai. In this case, the prosecution has examined 45 witnesses out of 47 witnesses. As per the directions issued by this Court in Crl.O.P.No.4172 of 2022 dated 02.03.2022, summons were sent to the witnesses PW13 and PW30 and the summons were returned stating that they were not in a position to appear before the learned trial Court, due to their medical conditions. Thereby, the petitioner has filed the petition for appointment of an Advocate Commissioner to examine the witnesses PW13 & PW30, as he need to elucidate certain facts with regard to defence as put forth before the Court, whereas, the learned trial Judge had dismissed the petition. While dismissing the petitioner, the learned trial Judge erroneously permitted the petitioner to cross examine PW13 and PW30 through video



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conferencing. Against the dismissal order passed by the learned trial Judge, the present revision has been filed.

3. Learned counsel for the petitioner submitted that the witnesses PW13 & PW30 were residing in the remote place of Tanjore and they could not approach the Court through video conferencing, since they were in rural area, thereby, he prays to appoint an Advocate Commissioner and through the Advocate Commissioner, at his own cost, he will be able to cross examine the witnesses PW13 & PW30. Hence he prays to set aside the order passed by the Special Court for the cases under Prevention of Corruption Act, Chennai in Crl.M.P.No.928 of 2022 in C.C.No.91 of 2011, by allowing this revision petition.

4. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent and perused the materials available on record.

5. On considering the above submissions made by the learned counsel for the petitioner, this Court is of the view that the petitioner has



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cross examined all the witnesses and thereafter, he need some facts to elucidate from the witnesses PW13 & PW30 and he had also taken steps to cross examine them by recalling the witnesses by filing an appropriate petition, whereas the trial Judge directed him to cross examine them through video conferencing, which is not practicable for the persons residing in the remote village as they will face connectivity issues from the service provider. Therefore, the Revision Stands allowed and the order passed by the learned Special Court for the cases under Prevention of Corruption Act, Chennai in Crl.M.P.No.928 of 2022 in C.C.No.91 of 2011 dated 07.10.2022 is hereby set aside. The petitioner is granted liberty to cross examine the witnesses PW13 & PW30 through the learned Advocate Commissioner at his own cost.

6. The learned trial Judge is directed to appoint an Advocate Commissioner within a period of one week from the date of receipt of a copy of this order and after receiving the report from the learned Advocate Commissioner, the learned trial Judge is directed to complete the trial as expeditiously as possible within a period of three months thereafter, as per the manner known to law.



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7. Accordingly, this Criminal Revision Petition stands ordered.

Consequently, connected Miscellaneous Petition is also closed.

09.01.2023

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Note: Issue order copy on 11.01.2023

To

1. The Special Court for the cases
under Prevention of Corruption Act, Chennai.
2. The Deputy Superintendent of Police,
CCIW, (CID),
Chennai.
3. The Public Prosecutor,
High Court of Madras.



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T.V.THAMILSELVI,J.

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and Crl.M.P.No.18729 of 2022**

09.01.2023