



CrI.O.P No.118 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CrI.O.P No.118 of 2024

and

CrI.M.P.No.120 of 2024

- 1.Kalaivani
D/o.K.K.Mani
- 2.K.K.Mani
S/o.Karuppa Gounder
- 3.R.Sagunthala
W/o.K.K.Mani

... Petitioners

vs.

State represented by its
The Inspector of Police,
District Crime Branch,
Erode District.
Crime No.11 of 2017

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 15.12.2023 and call for the entire records comprised in CrI.M.P.No.19724 of 2023 in C.C.No.637 of 2019 on the file of Judicial Magistrate II, Erode.



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For Petitioners : Mr.Vimal B.Crimson
For Respondent : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

This petition has been filed challenging the order passed by the Court below in CrI.M.P.No.19724 of 2023 in C.C.No.637 of 2019, dated 15.12.2023, dismissing the petition filed by the petitioners u/s.311 Cr.P.C. to recall PW-1 to PW-8 for cross-examination.

2. Heard Mr.Vimal B.Crimson, learned counsel for petitioners and Mr.A.Damodaran, learned Additional Public Prosecutor, appearing for respondent.

3. This Court carefully went through the order passed by the Court below and found that the Court below has assigned sufficient reasons as to why the petition filed by the petitioners for recall of the witnesses is devoid of merits. This Court does not find any illegality or infirmity in the findings of the Court below. The Court below has also taken into consideration the directions given by the Apex Court in SLP (CrI.)



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No.10685 of 2018, dated 29.12.2022, wherein the Apex Court has directed completion of trial preferably within a period of one year from the date of the order.

4. Learned Additional Public Prosecutor appearing for the respondent submitted that the examination of the witnesses on the side of prosecution is complete and the case is posted for questioning u/s.313 Cr.P.C.

5. Learned counsel for petitioners submitted that one last opportunity can be given to the petitioners only to recall PW-1 for further cross-examination in order to elucidate certain answers on certain vital documents. Learned counsel submitted that a date can be fixed by this Court and on that day, the cross-examination will be completed. Learned counsel further submitted that the petitioners will abide by any conditions imposed by this Court.

6. Taking into consideration the facts and circumstances of the case and also the reasoning given by the Court below while dismissing



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the petition after duly taking into account the order passed by the Apex Court fixing a time frame for the completion of the trial and considering the seriousness of the offence for which the petitioners are facing trial, this Court is inclined to give one last opportunity to the petitioners to recall PW-1 for further cross-examination on payment of costs.

7. The order passed by the Court below in CrI.M.P.No.19724 of 2023 in C.C.No.637 of 2019, dated 15.12.2023 is hereby modified and petitioners are permitted to further cross-examine PW-1. The petitioners shall deposit cost of Rs.10,000/- [Rupees Ten Thousand only] before the Court below on or before 12.01.2024. The Court below shall fix a date for further cross-examination of PW-1 on 22.01.2024. On that date, the cross-examination shall be completed and the cost shall be paid to PW-1. If, for any reason, the cross-examination is not done/completed on that day, the petitioners will loose their right to recall PW-1 thereafter. The Court below shall keep in mind the directions issued by the Apex Court and complete the proceedings by the end of February 2024. The compliance report shall be filed before this Court after the completion of the proceedings.



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This Criminal Original Petition is disposed of with the above direction. Consequently, connected miscellaneous petition is closed.

05.01.2024

Note : Issue order copy by 08.01.2024

Index : Yes/No

Speaking Order/Non-Speaking Order

Neutral citation : Yes/No

gm

To

1.The Judicial Magistrate II,
Erode.

2.The Inspector of Police,
District Crime Branch,
Erode District.
Crime No.11 of 2017

3.The Public Prosecutor,
High Court of Madras,
Madras.



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N. ANAND VENKATESH., J

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