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CrI.O.P.No.2534 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No.2534 of 2024

R.Prabakaran

... Petitioner

Vs.

State Rep. by
Inspector of Police,
T-4, Madhuravoyal Police Station,
Chennai – 600 095

... Respondent

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to call for the records and set aside the order passed by the Hon'ble Principal Special Judge, Special Court for EC and NDPS act Chennai in CrI MP No.10186 of 2023 dated 22.01.2024.

For Petitioner : Mr.Martin Manivannan

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

This Criminal Original petition has been filed challenging the order passed by the Court below in CMP No.10186 of 2023 in CC No.171 of 2022 dated 22.01.2024 on the file of the Principal Special Judge, Chennai, dismissing the application filed under section 91 of



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Cr.PC for a direction to the respondent police to produce the accident register along with all the documents issued by the doctors who treated the petitioner on 29.03.2022 both from the Government Stanley Hospital, Chennai and Government Taluk Hospital, Poonamallee.

2. Heard Mr.Martin Manivannan, learned counsel for the petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor for respondents.

3. The petitioner is facing trial before the Court below for offence under Section 8(c), 20(b) (ii) © and 29(1) of the NDPS Act. The witnesses on the side of the prosecution were examined and the petitioner was also questioned under Section 313 (1) (b) of Cr.PC. The case was at the stage of examination of defense witness. DW1 was also examined on the side of the petitioner.

4. The main defense that was taken by the petitioner is that no recovery took place from the petitioner as alleged by the prosecution and a false case has been foisted against the petitioner. To substantiate the same, the petitioner wanted certain documents to be summoned from



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Government Stanley Hospital and Government Taluk Hospital, Poonamallee. This application was dismissed by the Court below on the ground that these documents are not relevant for the purpose of trial and that all the particulars are already available in the remand report and the remand order that was passed by the learned Judicial Magistrate. Aggrieved by the same, the present criminal original petition has been filed before this Court.

5. In the considered view of this Court, the petitioner is facing very serious charges before the Court below. Hence, the petitioner must be given sufficient opportunity to make out his defense. The defence that is sought to be established by the petitioner is that no such recovery had taken place as alleged by the prosecution. In order to prove the same, the petitioner wants some documents dated 29.03.2022 to be summoned from the hospital. An opportunity can be given to the petitioner to get these documents summoned to establish the defence.

6. In view of the above order, the order passed in CMP No.10186 of 2023 in CC No.171 of 2022 dated 22.01.2024, is hereby set-aside. The Court below shall take immediate steps to summon the



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relevant documents and these documents shall be marked on the side of the defense. This will not give a cause of action for once again recalling the prosecution witness. The court below shall complete the proceedings in CC No.171 of 2022 within a period of two months from the date of receipt of a copy of this order.

7. This Criminal Original Petition is disposed of with the above directions.

08.02.2024

Speaking Order/Non-speaking Order

Index : Yes/No

Neutral citation: Yes/No

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To

1.State Rep. by
Inspector of Police,
T-4, Madhuravoyal Police Station,
Chennai – 600 095

2.The Public Prosecutor,
High Court, Madras.

N.ANAND VENKATESH, J



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