



CrI.O.P.No.4690 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No.4690 of 2024

And

CrI.M.P.No.3414 of 2024

1.Jahir Hossian
2.Suman Akter

... Petitioners

Vs.

State rep. by,
The Inspector of Police,
J10 Chemmanchery Police Station
Cr.No.856 of 2021.

... Respondent

Prayer:

Petition filed under Section 482 of Cr.P.C., seeking to set aside the order in CrI.M.P.No.1390 of 2024 in C.C.No.334 of 2021 dated 09.02.2024 on the file of Special Judge, II Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai on dismissing the petitioners to examine the LW3 Balamurugan and LW5 Mahalakshmi.

For Petitioners : M/s.R.Ancy
For Respondent : Mr.A.Damodaran
Additional Public Prosecutor

O R D E R

This petition has been filed challenging the order passed by the



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Court below in CrI.M.P.No.1390 of 2024 in C.C.No.334 of 2021 dated 09.02.2024 dismissing the application filed under Section 311 of Cr.P.C. to examine L.W.3 and L.W.5 as defence witnesses.

2.Heard the learned counsel for the petitioners and learned Additional Public Prosecutor appearing on behalf of the respondent.

3.The petitioners are facing trial before the Court below for offence under NDPS Act. The prosecution has examined all the witnesses and the petitioners were also questioned under Section 313(1)(b) of Cr.P.C. Thereafter, the case was at the stage of examining defence witnesses. The petitioners filed application to examine L.W.3 and L.W.5 who were dispensed with by the prosecution. This application was dismissed by the Court below on the ground that L.W.3 and L.W.5 need not be examined since P.W.2 and P.W.3 have already been examined for the same purpose and that apart L.W.5 is none other than the wife of P.W.3.

4.In the considered view of this Court, the reasoning that has been given by the Court below considered along with the evidence of P.W.2 and P.W.3 which were placed before this Court shows that the



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order does not suffer from any illegality or infirmity and it does not require the interference of this Court. Whatever contradiction or material, alteration etc., is sought to be taken as defence, can be done by citing the evidence of P.W.2 and P.W.3. It is not necessary to once again examine L.W.3 and L.W.5 in this case. This clarity will sufficiently take care of the interest of the petitioners.

5.In the result, this criminal original petition stands dismissed. Consequently, the connected miscellaneous petition is closed.

28.02.2024

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

- 1.The Special Judge,
II Additional Special Court for Exclusive Trial of Cases
under NDPS Act, Chennai.
- 2.The Inspector of Police,
J10 Chemmanchery Police Station
Cr.No.856 of 2021.
- 3.The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

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N.ANAND VENKATESH,J.
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