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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.6410 of 2024
and Crl.MP.No.4725 of 2024

1.Doss

2.Manoharan

3.Dhanasekar

...Petitioners/Accused 4,5 & 6

.Vs.

Sub Inspector of Police
Central Crime Branch, EDF-II, Team-IV
Vepery, Chennai – 600 008.

Respondent/Complainant/Respondent ..

(Crime No.529/2009)

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the order dated 6.2.2024 in Crl.MP.No.56988 of 2023 in C.C.No.4108 of 2010 passed by the Metropolitan Magistrate, for Exclusive trial of CCB Cases (relating to cheating cases in Chennai) and CBCID Metro cases, Egmore, Chennai.

For Petitioners : Mr.S.Thiruvengadam
for Mr.T.Saravanan

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.Side)

ORDER

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This petition has been filed challenging the order passed by the Court below in CrI.MP.No.56988 of 2023 dated 6.2.2024, dismissing the application filed by the petitioners under Section 311 of Cr.PC, to recall PW.1 to PW.8, PW.12 and PW.14 to PW.16 for cross examination.

2.Heard Mr.S.Thiruvengadam, learned counsel for the petitioners and Mr.A.Gopinath, learned Government Advocate (CrI.Side) for the respondent.

3.The petitioners are facing trial before the Court below for offence under Sections 120(b), 420, 465, 468, 471 r/w Section 34 of IPC. The prosecution had examined witnesses and none of those witnesses were cross examined on the side of the petitioners. The petitioners therefore filed an application in CrI.MP.N.56988 of 2023 to recall the witnesses for cross examination. The Court below dismissed the application by order dated 6.2.2024, on the ground that no valid reasons have been given and the case has been pending for more than 13 years. Aggrieved by the same, the present petition has been filed before this Court.

4.When the matter came up for hearing on 18.3.2023, this Court informed the learned counsel for the petitioners that all the witnesses cannot be recalled in this case more particularly considering the fact that the case is of the year 2010. This Court directed the learned counsel for the petitioners to choose the important



witness who can be recalled in this case. Accordingly, the case was posted for hearing today.

5.The learned counsel for the petitioners submitted that the petitioners want to recall PW.1 who is the complainant in this case and PW.16 who is the investigation officer for cross examination.

6.The learned Government (Crl.Side) on instructions submitted that the case is now pending at the stage of examination of defence witnesses and posted on 25.3.2024.

7.Taking into consideration the facts and circumstances of the case and the reason assigned by the petitioners and also considering the seriousness of the charges faced by the petitioners, this Court is inclined to gave one opportunity to the petitioners to recall PW.1 and PW.16 for cross examination.

8.The order passed by the Court below in Crl.MP.No.56988 of 2023, dated 6.2.2024, is partly set aside insofar as PW.1 and PW.16 are concerned. The Court below shall recall these two witnesses and fix a date for their cross examination. The petitioners shall pay a cost of Rs.2500/- to each of these witnesses on the date of their appearance. The cross examination shall be completed on the same day when these witnesses appeared before the Court. If for any reason, the petitioners do not cross examine the witnesses on the date of their appearance, the petitioners will loose their right to recall the witness in future.



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9.In the result, this criminal original petition is partly allowed to the extent indicated herein. Consequently, connected Miscellaneous Petition is closed

20.03.2024

Index: Yes/No
Speaking Order/Non Speaking Order
kp

To

- 1.Sub Inspector of Police
Central Crime Branch, EDF-II, Team-IV
Vepery, Chennai – 600 008.
- 2.Metropolitan Magistrate, for Exclusive trial of CCB Cases
(relating to cheating cases in Chennai)
and CBCID Metro cases, Egmore, Chennai.
- 3.The Public Prosecutor
High Court, Madras.

CRL.O.P No.6410 of 2024