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CRL.O.P.No.8750 of 2024
and CrI.M.P.No.6297 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.12.2024

CORAM : MR. JUSTICE N.SESHASAYEE

CRL.O.P.No.8750 of 2024
and CrI.M.P.No.6297 of 2024

S.Arul

... Petitioner

Vs.

State represented by
Inspector of Police
Vigilance and Anti Corruption
City Special Unit-III
Alandur, Chennai - 16

... Respondent

PRAYER: Criminal Original Petition filed under Section 528 of B.N.S.S. Act, 2023, to call for the records in CrI.M.P.No.679 of 2024 in Special Case No.1 of 2020 on the file of Special Judge / Chief Judicial Magistrate, Chengalpattu and set aside the order dated 11.03.2024.

For Petitioner : Mr.R.Vijayakumar

For Respondents : Mr.K.M.D.Muhilan
Government Advocate (CrI. Side)

ORDER

The present petition is preferred by the sole accused in Special Case No.1 of



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2020, now pending trial before the learned Special Judge / Chief Judicial Magistrate, Chengalpattu. The petitioner is facing trial for charges U/s.7 of Prevention of Corruption Act, 2018.

2.P.W.1, the officer who accorded sanction U/s.19 of Prevention of Corruption Act, was examined in chief examination fully. The matter is posted for cross examination. However, the prosecution wanted to ask couple of more questions to clarify certain aspects which the witness has already spoken in the chief examination earlier. For this purpose it took out a petition in CrI.M.P.No.679 of 2024 U/s.311 Cr.P.C., and the trial Court has allowed it. This is now under challenge.

3.Heard both sides. The learned counsel for the petitioner submitted that after the final report was filed, the investigating agency wanted to introduce some documents, for which he took out a separate petition seeking the leave of the Court to make those documents part of the final report, that came to be dismissed by the trial Court on the ground that the investigating agency has not obtained the leave of the Court for further investigation U/s.173 (8) Cr.P.C. and that order has now become final. The learned counsel argued



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that what the prosecution could not achieve then is now trying to achieve through Section 311 Cr.P.C.

4.Mr.K.M.D.Muhilan, the learned Government Advocate (Crl. Side) submitted that nothing was sought to be introduced nor anything which may embarrass a fair trial is attempted. What the prosecutor failed to ask during his chief examination that alone is going to be asked.

5.This Court considers that filing of a petition U/s.311 Cr.P.C. by the prosecution under circumstances is absolutely unnecessary, as it loads the Court with avoidable paper work. All it requires is that when the witness steps into the box even for cross examination, the prosecution merely has to seek the leave of the Court orally for continuing the cross examination. After all, examination of P.W.1 is not yet complete and indeed the cross examination has not even commenced. This Court, therefore, considers no prejudice would be caused if the prosecution wants to elicit few more answers in aid of its effort to establish the charges.

N.SESHASAYEE, J.

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6.In the result, this Criminal Original Petition stands dismissed.

Consequently, the connected miscellaneous petition is closed.

06.12.2024

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Index : Yes / No
Neutral Citation

To

1.Inspector of Police
Vigilance and Anti Corruption
City Special Unit-III
Alandur, Chennai - 16

2. The Special Judge /
Chief Judicial Magistrate
Chengalpattu

3.The Public Prosecutor
High Court of Madras
Chennai 600 104

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