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Crl.O.P. No.9565 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2024

CORAM

MR.JUSTICE N.SESHASAYEE

Crl.O.P. No.9565 of 2024

S.Parthasarathy
Asst. Engineer (Now under suspension)
Chennai Metropolitan Water Supply and
Sewerage Board (CMWSSB)-Div.40-i/c
T.H.Road
Tondiarpet, Chennai.

... Petitioner

Vs.

The State rep. by,
The Inspector of Police
Vigilance and Anti-Corruption
City-I, Detachment
Chennai-28

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code to set aside the order passed in Crl.M.P. No.1192 of 2023 in C.C. No.3 of 2015 dated 13.2.2024 pertaining to PW-1 by the Special Court for the cases under the Prevention of Corruption Act, Chennai.

For Petitioner : Mr.K.M.Subramanian

For Respondent : Dr.C.E.Pratap
Govt. Advocate (Crl.Side)



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ORDER

This petition is preferred by the sole accused in C.C. No.3 of 2015 now pending trial before the Special Court for the cases under the Prevention of Corruption Act, Chennai, namely XII Additional City Civil Court, Chennai (designated court for V&AC cases), for recalling PW1 for further cross-examination. Before the trial court, the petitioner herein had taken out a petition under Section 311 Cr.P.C. for recalling not just PW1, but also PWs.5 and 6. The trial court had allowed the application as regards PWs.5 and 6, but dismissed the same vis-a-vis recall of PW1.

2. The learned counsel for the petitioner informed the court that as per his instruction, PW2, the de-facto complainant, has made a material suppression in his complaint and it will have a direct bearing on the quality of sanction accorded by PW1 for it directly relates to his application of mind to the material before him. He has also added that couple of ancillary questions are also associated with that.

3. The learned Government Advocate (Crl. Side), on instructions, submitted that the sanctioning authority has since superannuated but submitted that he is in



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good health and is very much available in the city.

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4. To a pointed query why the defence did not cross-examine PW1 on the point which it considers as material to its line of defence, the learned counsel for the petitioner submitted that there has been a change of Advocate for defending the appellant and the present counsel found certain additional facts which are required to be confronted to the witness. This is precisely for this reason PWs.5 and 6 had been recalled.

5. After weighing the rival submissions, this court allows this petition and PW1 is recalled for further cross-examination. However, the petitioner is directed to pay a cost of Rs.5,000/- and the travelling expenses to PW1 to appear before the court, for causing avoidable inconvenience. The petitioner herein is required to apply for summons within three working days from the date on which this order is hosted in the official website of this court and on the date PW1 appears, he should be fully cross-examined. For this purpose, the petitioner is entitled to use the web copy of the order and may produce the same before the trial court. The petitioner is cautioned that he would not be entitled to cross-examine PW1 on aspects which have already been cross-examined and if the petitioner fails to



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cross-examine the witness on the date on which he appears before the court, the opportunity granted to the petitioner in this order will stand forfeited to him.

6. With the above direction, the criminal original petition is allowed.

10.09.2024

Asr

Index : Yes / No

Neutral Citation : Yes/No

To

- 1.The Special Court for the cases
under the Prevention of Corruption Act, Chennai.
- 2.The Public Prosecutor, High Court, Madras.



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N.SESHASAYEE, J.
Asr

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