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Crl.O.P.No.10505 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.10505 of 2024
and
Crl.M.P.No.7166 of 2024

Abdullah @ Saravana Kumar

...Petitioner/Accused

Vs.

Union of India
Rep by Superintendent of Police,
National Investigation Agency,
Chennai Branch.

...Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., r/w Section 21 of NIA Act, 2008 to allow this Criminal Original Petition recalling the P.W.25 and setting aside the cost imposed in Crl.M.P.No.612 of 2024 dated 01.04.2024 in Spl.S.C.No.28 of 2022 by the Special Court for NIA Cases, Sessions Court for Exclusive Trial of Bomb Blast, Poonamallee, Chennai.

For Petitioner : Mr.A.Rajamohamed



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For Respondent : M/s. B.Mohan
Special Public Prosecutor (NIA)

ORDER

M.S.RAMESH,J.

and

SUNDER MOHAN,J.

When the petitioner herein had sought for recalling P.W.25 through his application filed under Section 313 of Cr.P.C., the same claimed to be allowed through an order passed in Crl.M.P.No.612 of 2024 dated 01.04.2024 by imposing a cost of Rs.20,000/- out of which, the witness shall be paid out Rs.900/- and balance to the District Legal Services Authority, Chennai. Being aggrieved against the imposition of cost, the present Criminal Original Petition has been filed.

2. Through an interim order passed in Crl.M.P.7166 of 2024 dated 29.04.2024, we had taken into consideration the poor financial status of the petitioner and thereby granted an order of an interim stay, insofar as it imposes cost of Rs.20,000/-. While passing such an order, we had also granted liberty to the Trial Court to permit the petitioner to cross examine P.W.25. It is now stated that witness, P.W.25 was cross examined on



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30.05.2024. It is in this background, the Crl.O.P. is listed before us.

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3. The Trial Court had earlier on 11.03.2024, allowed an application filed by the petitioner under Section 311 Cr.P.C., and permitted him to cross examine P.W.25 by imposing a cost of Rs.900/-. However, the witness was not cross examined thereafter, and the Trial Court has taken into consideration that the witness was present four times after that, during which time also the petitioner did not cross examine.

4. By taking note of the fact that the serious prejudice was caused to the witness as well as the judicial proceedings, it had imposed cost of Rs.20,000/-. The petitioner in his affidavit filed in support of the present petition had stated that the petitioner is a daily wage worker, facing serious financial burden and he is also represented by a Legal Aid Counsel before the Trial Court.

5. Though the financial status had induced us to interfere with the cost of Rs.20,000/- imposed, we cannot lose sight of the hardship that was



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already caused to the witness, who had appeared on several occasions as well as the prejudice to the judicial proceedings. However, if the cost of Rs.20,000/- is reduced to Rs.2,000/ which can be paid to P.W.25, the ends of justice could be secured.

6. Accordingly, the impugned order Crl.M.P.No.612 of 2024 dated: 01.04.2024, insofar as it imposes the cost of Rs.20,000/- is modified to Rs.2,000/- payable to P.W.25 within a period of one week from the date of receipt of copy of this order.

7. In view of the above, this Criminal Original Petition stands partly allowed. Consequently, the connected miscellaneous petition is closed.

[M.S.R.,J.] [S.M.,J.]
03.07.2024

Neutral Citation: Yes/No
Speaking order/Non-Speaking order
dk
To

1. The Superintendent of Police,
National Investigation Agency,
Chennai Branch.



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2. The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



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M.S.RAMESH,J.
and
SUNDER MOHAN,J.
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