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CrI.O.P.No.496 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No.496 of 2024

1.Savariammal
W/o.R.Kanniah

2.K.Paul Santhosh Raj
S/o.Kulandaisamy

... Petitioners

Vs.

State represented by
The Deputy Superintendent of Police,
Economic Offence Wing-II Hqrs,
Chennai - 600 083.

... Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., praying to set aside the docket order passed by Chief Metropolitan Magistrate, Egmore, dated 02.05.2023 in C.C.No.8770 of 2004 and pass such further order enabling the petitioners to conduct cross-examination of witnesses and to complete the trial.

For Petitioners : Mr.S.Samuel Raja Pandian

ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below on 02.05.2023 in CrI.M.P.No.13517 of



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2023 in C.C.No.8770 of 2004 wherein the petitioners were directed to deposit the cost that was imposed by this Court while passing the order in Crl.O.P.No.6285 of 2023 dated 20.03.2023.

2. Heard Mr.S.Samuel Raja Pandian, learned counsel for petitioners.

3. The petitioners had earlier filed Crl.O.P.No.6285 of 2023 challenging the order passed by the Court below dismissing the petition filed u/s.311 Cr.P.C. for recalling PW-1 to PW-20. This Court, considering the facts and circumstances of the case, allowed the petition by order dated 20.03.2023. The relevant paragraphs read as follows:

"7. Cross-examination of a witness in a criminal trial is absolutely necessary to find out the truth. With a view to give an opportunity to the petitioner, this Court allows this petition by setting aside the order dated 09.02.2023 passed by the Learned Chief Metropolitan Magistrate at Egmore in Crl.M.P.No.1223 of 2023 in C.C.No.8770 of 2004, in so far as the dismissal of recall of P.W.1 to P.W.20 and allows the petition to recall P.W.1 to P.W.20 subject to the following conditions:-

- i) petitioners must pay costs of Rs.10,000/- each to P.W.1 to P.W.20 through Court and,
- ii) cross-examination of P.W.1 to P.W.20 should be completed on the same date, when they appear before the trial Court for cross-examination.



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8. With the above direction and observation, the Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed."

4. The above order was brought to the notice of the trial Court on 02.05.2023 and the trial Court directed the petitioners to deposit the cost imposed by this Court by 16.05.2023. This docket order passed by the trial Court has been put to challenge in this petition.

5. Learned Additional Public Prosecutor submitted that the case is now at the stage of final hearing and posted for hearing on 23.01.2024.

6. In the considered view of this Court, the present petition is an abuse of process of Court. This Court had allowed the earlier petition filed in Crl.O.P.No.6285 of 2023 and imposed cost. The Court below has merely followed that order and directed the petitioners to deposit the cost. This consequential order passed by the Court below on 02.05.2023 can never be put to challenge. If the petitioners had any difficulty in depositing the cost, the petitioners ought to have approached this Court



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seeking for modification of the order. Without resorting to that procedure, the petitioners have once again questioned the docket order passed by the Court below on 02.05.2023. It was more in the nature of a consequential order passed pursuant to the earlier order passed by this Court in Crl.O.P.No.6285 of 2023 dated 20.03.2023. This Court does not find any merit in this petition.

Accordingly, this Criminal Original Petition is dismissed.

10.01.2024

Speaking Order/Non-speaking Order

Index :Yes/No

Neutral citation: Yes/No

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To

1.The Chief Metropolitan Magistrate,
Egmore.

2.The Deputy Superintendent of Police,
Economic Offence Wing-II Hqrs,
Chennai - 600 083.

3.The Public Prosecutor,
High Court, Madras.

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