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CRL.O.P.No.15130 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.09.2024

CORAM : JUSTICE N.SESHASAYEE

CRL.O.P.No.15130 of 2024

G.Sivagami

... Petitioner

Vs.

1.The State rep. by
The Inspector of Police
Vigilance and Anti Corruption
City III, Chennai 35
(Crime No.15/AC/08/KM)

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the order passed in Crl.M.P.No.6374 of 2023 in Special Case No.11 of 2011 now pending as Special Case No.3 of 2024 by the learned Chief Judicial Magistrate, Kanchipuram.

For Petitioner : Mr.K.M.S.Muthukumaran

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

ORDER

The petitioner herein is arrayed as the sole accused in Spl.C.C.No.11 of



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2011. This Court is informed that the case has since been transferred to Special Court, Kancheepuram (Chief Judicial Magistrate) and has been taken on record as Special Case No.3 of 2024. The prosecution side of the evidence is closed, now the petitioner has examined three witnesses on her side as DW1 to DW3. She now has moved a petition in CrI.M.P.No.6374 of 2023 before the trial Court for examining herself as a witness in the case U/s.315 Cr.P.C. The prosecution did not file its counter before the trial Court. However, the learned Special Judge / Chief Judicial Magistrate, Kanchipuram, chose to dismiss the said petition on the ground that the petitioner did not mention the name of the witness in the petition.

2.Heard both sides. Counter affidavit has been filed by the prosecution. It appears that the trial Court has missed the prayer in the petition altogether. The prayer column in the petition discloses that the petitioner wants to examine herself as a witness and Section 315 Cr.P.C. declares that an accused is a competent witness to speak to the fact within her knowledge in the light of line of defence in the case.



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3.This petition necessarily has to be allowed for no accused shall be denied all legitimate right to defend a charge legally. It may be that an accused is entitled for his or her silence during trial, but then if any of the accused person wants to break the silence during trial and ought to enter the box that cannot be declined by the Court.

4.This Criminal Original Petition stands allowed accordingly.

04.09.2024

kas

Index : Yes / No
Neutral Citation

Note to Office: Issue order copy on 06.09.2024

To

1. The Inspector of Police
Vigilance and Anti Corruption
City III, Chennai 35
(Crime No.15/AC/08/KM)

2. The Chief Judicial Magistrate
Kanchipuram



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N.SESHASAYEE, J.

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