



WEB COPY



Crl.O.P.No.17057 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2024

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

Crl.O.P.No.17057 of 2024

1.Vincent Rajkumar
2.Sherley Arokiya Mary

... Petitioners

Vs.

The State Rep.by
The Inspector of Police,
City Crime Branch Police Station,
Coimbatore

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleased to call for the records pertaining to the order dated 12.01.2024 passed by the learned Judicial Magistrate No.VII, Coimbatore in Crl.M.P.No.52586/2023 in C.C.No.1546/2019 and set aside the same.

For Petitioners : Mr.R.Prabakar

For Respondent : Mr.S.Udayakumar
Government Advocate (Crl.Side)

ORDER

The petition is filed under Section 311 Cr.P.C., by the accused to recall the witnesses PW4, PW5, PW6, PW8, PW9, PW10, PW11, PW12,



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PW13, PW14, PW15, PW16, PW17, PW18, PW19, PW20, PW21, PW22, PW24, PW27, PW28, PW30 and PW31 been dismissed by the trial Court stating that no reasonable justification for non examining these witnesses, when they were present. The record indicates that the witnesses were examined in chief between 28.09.2018 and 12.04.2023. Application to recall filed on 12.12.2023 without assigning justifiable reason to recall these witnesses.

2. The learned counsel appearing for the petitioners states that the petitioners are husband and wife, who are seriously prejudiced if the witnesses not recalled and subjected to cross examine. He further states that the petitioners are facing trial for the offences under Sections 120B, 468, 471 & 420 IPC in C.C.No.1546 of 2019. The witnesses are not subjected to cross examine, it will lead to miscarriage of justice.

3. Though the submissions made by the learned counsel for the petitioners superficially appears to be acceptable, the order of the Judicial Magistrate clearly states that these witnesses were examined long back and the application is filed to recall belatedly and the reason to



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recall not been sufficiently stated. Since the said order does not suffers any perversity or illegality, this Court is not inclined to exercise power under Section 482 of Cr.P.C. Taking note of the fact that recalling the witnesses after six years of chief examination also will cause prejudice to the prosecution as well as harassment to the witnesses, petition deserved to be dismissed.

4. As a result, this Criminal Original Petition is dismissed.

22.07.2024

Index : Yes/No

Neutral Citation : Yes/No

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To

1.The Judicial Magistrate No.VII, Coimbatore

2.The Inspector of Police,
City Crime Branch Police Station,
Coimbatore

3.The Public Prosecutor,
High Court of Madras,
Chennai.



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Dr.G.JAYACHANDRAN,J.

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