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CRL.R.C.Nos.1231 and 1232 of 2024
and Crl.M.P.Nos.10551 and 10553 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.09.2024

CORAM: MR.JUSTICE N.SESHASAYEE

Crl.R.C.Nos.1231 and 1232 of 2024
and Crl.M.P.Nos.10551 and 10553 of 2024

1. K.Ramabhadran ... Petitioner in Crl.RC.1231/2024
2. R.Karunanithi ... Petitioner in Crl.RC.1232/2024

Vs.

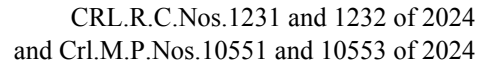
The State Rep. by
Deputy Superintendent of Police
CBI, ACB, Chennai ... Respondent in both Crl.RCs

Common Prayer: Revision petitions filed under Section 438 r/w 442 of BNSS, to set aside the order dated 03.07.2024 passed by the learned XII Additional Special Judge for CBI cases, Chennai in Crl.M.P.Nos.4461 and 4462 of 2024 in C.C.No.15 of 2014.

For Petitioner : Mr.C.Manishankhar, Senior Counsel
in Crl.RC.1231/2024 Assisted by Mr.S.Kathiravan

For Petitioner : Mr.B.Sivakumar
in Crl.RC.1232/24

For Respondent : Mr.K.Srinivasan
in both Crl.RCs Special Public Prosecutor (CBI)



These two revision petitions are filed by A4 and A5 in C.C.No.15 of 2014, on the file of XII Additional Special Judge (Special Court for CBI cases) impugning the admissibility of a proceeding of the C.B.I. dated 07.01.2013. This Court is informed when this proceedings was sought to be introduced in evidence by P.W.20, the counsel for the petitioners before the trial Court have raised an objection that the proceedings as a whole cannot be marked, since there are specific paragraphs which carry self incriminating statements attributed to these petitioners. The trial Court vide its impugned order has held that the whole document cannot be rejected, since the said proceedings contain both incriminating and non incriminating statements. The learned trial Judge has further observed that this issue could be considered during the final hearing.

2.Mr.K.Srinivasan, the learned Special Public Prosecutor (C.B.I.) has filed his counters in both these cases and submitted that the entire case of the prosecution commences with this proceeding, and hence supported the statement of the learned trial Judge that the whole document cannot be rendered inadmissible.



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3. After weighing rival submissions, this Court has little hesitation to inform the learned trial Judge that no self incriminating statement made by a person accused of an offence to a police officer can be made admissible in view of the bar U/s.25 of the Evidence Act, 1872 (Section 23 of BSA, 2023). Hence, the Court cannot have the combo statements both of incriminating and non incriminating statements together. It has to eschew all those statements which are barred by Section 25 of the Evidence Act, 1872. Secondly, this Court also likes to inform the learned trial Judge that in terms of Rule 42(7) of the Criminal Rules of Practice, 2019 as amended on 12.08.2022, whenever an objection is raised vis-a-vis introducing any evidence, the Court cannot defer its decision to a later date, but has to take a decision immediately.

4. In view of the same, this Court chooses to set aside the impugned order of the learned trial Judge and remands the matter back to the trial Court. After putting P.W.20 in the box, it is required to decide that portion which needs to be eschewed of the record in the presence of counsel for both sides and retain so much of document as is admissible in evidence.

5. These Criminal Revision Cases are disposed of accordingly. Consequently, the connected miscellaneous petitions are closed.



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20.09.2024

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Index : Yes / No
Neutral Citation

To

1.The Deputy Superintendent of Police
CBI, ACB, Chennai

2.The XII Additional Special Judge
for CBI cases, Chennai



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N.SESHASAYEE, J.

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