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CRL.O.P.No.23886 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.10.2024

CORAM : MR. JUSTICE N.SESHASAYEE

CRL.O.P.No.23886 of 2024
and Crl.M.P.No.13483 of 2024

1.Umaiyaakunjaram
2.U.Malathy
3.D.Ramalingam
4.R.Arivananda Gomath

... Petitioner

Vs.

State Rep. by
The Inspector of Police
Vigilance & Anti-Corruption
Kancheepuram

... Respondent

PRAYER: Criminal Original Petition filed under Section 528 of BNSS Act, 2023, to set aside the impugned order dated 20.09.2024 passed by the learned Special Judge / Chief Judicial Magistrate, Chengalpattu in Crl.M.P.3399 of 2024 in Spl.C.No.7 of 2012 and consequently direct to allow the petition to recall the witness P.W.1 Mr.C.V.Shankar filed by the petitioners under Section 348 of BNSS (Section 311 Cr.P.C.) in Spl.C.No.7 of 2012 on the file of the learned Special Judge / Chief Judicial Magistrate, Chengalpattu.

For Petitioner : Mrs.T.Suriya

For Respondent : Dr.C.E.Pratap



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Government Advocate (Crl. Side)

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ORDER

The petitioners herein have been arrayed as A1 to A4, and they are defending charges U/s.13(2) r/w 13(1)(e) of Prevention of Corruption Act, 1988, in Special Case No.7 of 2012, on the file of the Special Court for V & AC Cases (Chief Judicial Magistrate Court) Chengalpattu.

2.The prosecution in all has examined 56 witnesses and the defence has examined D.W.1 to D.W.4. They have also produced certain documents. When the case is in the stage of argument, the petitioners have taken out Crl.M.P.No.3399 of 2024 for recalling P.W.1, the sanctioning authority. This was dismissed by the trial Court.

3.Heard both sides. *Prima facie* it appears the petitioners have participated in the trial, but they only want to recall P.W.1 for certain clarification. Having waited for 12 years for the conclusion of trial, this Court finds that no prejudice would be caused to the prosecution merely because an opportunity to recall P.W.1 is given to the petitioners. P.W.1 is now superannuated, therefore, the prosecution expresses an amount of inconvenience to which



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the witness might be put to. This Court, therefore, allows a petition, but subject to the condition that the petitioners jointly pay a cost of Rs.10,000/- (Rupees Ten Thousand only) to P.W.1, in addition to such batta which the witness is entitled to.

4.The petitioners are further informed that they will not be allowed to cross examine P.W.1 on matters which are already covered nor will they be allowed to cross examine anything beyond that, which falls within the purview of exercising his authority to grant sanction for prosecution.

5.The petitioners are required to apply for summons to the witness on 07.10.2024, and the examination of P.W.1 is directed to be held on 14.10.2024 or any date, and in the eventuality of the presiding officer not sitting on that day, the next day on which the Presiding Officer sits. The batta to P.W.1 is required to be paid through the chief ministerial officer of the Special Court on the date on which P.W.1 appears. If the witness appears and the petitioners are not ready for whatever reason granted like

N.SESHASAYEE, J.

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boycotts of Courts by the advocates, the opportunity now accorded to the petitioners will stand forfeited.

6.This petition stands disposed of accordingly. Consequently, the connected miscellaneous petition is closed.

04.10.2024

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Index : Yes / No
Neutral Citation

To

1.The Inspector of Police
Vigilance & Anti-Corruption
Kancheepuram

2.The Special Judge
/ Chief Judicial Magistrate
Chengalpattu

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