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CRL.R.C.No.1875 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.11.2024

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MR.JUSTICE N.SESHASAYEE

CrI.R.C.No.1875 of 2024
and CrI.M.P.No.15386 of 2024

1.Vijayraj H. Jain
2.Madanlal H. Jain
3.K.Anitha Devi

... Petitioners

Vs.

The State
Rep. by the Inspector of Police
Vigilance & Anti-Corruption
Special Investigation Cell
Chennai 600 028

... Respondent

Prayer: Revision Case filed under Section 438 r/w 442 of BNSS Act, 2023, seeking to set aside the dismissal order in CrI.M.P.No351 of 2024 in C.C.No.6 of 2016, dated 25.09.2024, on the file of the learned Special Judge for Cases under Prevention of Corruption Act, Chennai and permit the revision petitioners / accused No.3 to 5 for summoning of the defence side sole witness as in CrI.M.P.No.351 of 2024 in C.C.No.6 of 2016.

For Petitioner : Ms.Prethikaja

For Respondent : Mr.K.M.D.Muhilan
Government Advocate (CrI. Side)



CRL.R.C.No.1875 of 2024

ORDER

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This Revision is filed challenging the order of the learned Special Judge, Special Court for the cases Under Prevention of Corruption Act, Chennai in CrI.M.P.No.351 of 2024 in C.C.No.6 of 2016. The petitioners had taken out the aforesaid petition for summoning a certain Rajasekar, who was the Inspector of Police (Law & Order), C2, Elephant Gate Police Station, Chennai, sometime in 2011-2012. He is said to have superannuated now.

2. There are six accused persons who face trial in C.C.No.6 of 2016. The present petitioners are ranked as A3 to A5.

3. The quintessence of the prosecution case is that, a complaint had been preferred against the defacto complainant in the present case on certain crime said to have been perpetuated against A2 to A5. In connection therewith, a case in Crime No.175 of 2012 was registered before the C2, Elephant Gate Police Station. A1 and A6 were police officials who were required to investigate into the crime. It appeared that on the abetment of A2 to A5, these A1 and A6 forced the defacto complainant in the present case to negotiate and compromise the matter with the petitioners in Crime



CRL.R.C.No.1875 of 2024

WEB COPY

4.The trial of the case is concluded and arguments are scheduled to take place before the trial Court today. However, sometime in April, 2024, the petitioners herein had taken out the petition in Crl.M.P.No.351 of 2024 for examining certain Rajasekar as a defence witness. According to the petitioners, Rajasekar had some role in what may be claimed as the predicate case for the present case. The prosecution version, however, is that Thiru.Rajasekar was working only in Law and order in the Elephant Gate Police Station much prior to the registration of F.I.R. in Crime No.175 of 2012, whereas the F.I.R was under investigation by the police officials who have already been arrayed as A1 and A6 in the present case.

5.Heard both sides. The learned counsel for the petitioner asserted that even though Thiru.Rajasekar was working only in Law and Order, he does have a role vis-a-vis certain alleged transactions in that predicate case. This Court appreciates that the defence should be given optimum procedural space to defend their freedom and hence this Court necessarily needs to be little flexible while affording procedural opportunity to the petitioners to defend



CRL.R.C.No.1875 of 2024

the charges against them.
WEB COPY

6.Having concluded thus, this Court does not want to ignore the line of counter which prosecution now presents. The prosecutor also makes a statement purely on oral instruction that Rajasekar's name has not been introduced during the cross examination of any of the witnesses, but the learned prosecutor underscores that he has not verified the records.

7.After weighing rival submissions, this Court deems it appropriate to allow this revision and grant leave to the petitioners to summon Thiru.Rajasekar. However, given the timing of the petition and given the nature of resistance which the prosecutor has offered, this Court requires the petitioners jointly to deposit Rs.10,000/- as a pre-condition for applying for summons. After the conclusion of examination of Thiru. Rajasekar, if the Court finds that he has been unnecessarily summoned, then it is directed to pay Rs.5,000/- to Thiru.Rajasekar and the remaining Rs.5,000/- has to be appropriated to State. If however, the purpose for calling the witness has a genuine purpose, the learned trial Judge is required to return Rs.10,000/- to the petitioner. The petitioner is directed to deposit Rs.10,000/- before the trial Court before



CRL.R.C.No.1875 of 2024

WEB COPY

applying for summons. It is, however, made clear that Thiru.Rajasekar is entitled to all such allowances which he is entitled to in law. Indeed, those allowances are also is required to be deposited before the Court and necessary cheque has to be issued to the witness on the date on which he appears before the Court.

8.This Criminal Revision Case stands allowed accordingly. Consequently, the connected miscellaneous petition is closed.

07.11.2024

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Index : Yes / No

Neutral Citation

Note: Issue order on 12.11.2024



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CRL.R.C.No.1875 of 2024

N.SESHASAYEE, J.

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To

1. The Special Judge
for Cases under P.C, Act
Chennai

2.The Inspector of Police
Vigilance & Anti-Corruption
Special Investigation Cell
Chennai 600 028.

3.The Public Prosecutor
High Court of Madras
Chennai 600 104

CrI.R.C.No.1875 of 2024
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