



WEB COPY



1

Crl OP Nos.29271 and 29269 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.Nos.29271 and 29269 of 2023

P.Krishnamurthy

...Petitioner / Petitioner /Accused 9
in Crl OP No.29271 of 2023

Rami Reddy

...Petitioner / Petitioner /Accused 10
in Crl OP No.29269 of 2023

Vs.

State Rep. by
The Drug Inspector – Kilpauk Range I/c.
Drug Control Zone – I,
II Floor, Old S.D.C Office Building,
D.M.S.Campus, 259-261, Annasalai,
Teynampet,
Chennai – 06

...Respondent/complainant
in both Crl OPs

PRAYERin Cr.OP No.29271 of 2023: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in CC No.12647 of 2006 pending on the file of the learned XV Metropolitan Magistrate, George Town, Chennai and to set aside the order dated 17.11.2023 passed in Crl MP No.8757 of 2023.

PRAYERin Cr.OP No.29269 of 2023: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in CC No.12647 of 2006 pending on the file of the learned XV Metropolitan Magistrate,



George Town, Chennai and to set aside the order dated 17.11.2023 passed in Crl MP No.8756 of 2023.

For Petitioner : Mr.S.Ashok Kumar
Senior Counsel for both OPs
For Respondent : Mr.A.Damodaran
Additional Public Prosecutor
for both Ops

COMMON ORDER

These petitions have been filed by A9 and A10 challenging the order passed by the Court below in Crl MP Nos.8756 and 8757 of 2023 in CC Nos.12647 of 2006 dated 17.11.2023, dismissing the application filed under Section 205 of Cr.PC to dispense with the appearance of the petitioners.

2. Heard Mr.S.Ashok Kumar, learned Senior Counsel for petitioner in both Criminal Original petitions and A.Damodaran, learned Additional Public Prosecutor for respondent in both Criminal Original petitions.

3. This Court has carefully considered the submissions



made on either side and the materials available on record.

4. A private complaint was filed as against twelve accused persons for offence under the Drugs and Cosmetics Act 1940. Out of the twelve accused persons, A6, A7, A11 and A12 were absconding and hence, the case was split up insofar as those accused persons are concerned by an order dated 15.10.2019. The other accused persons are facing trial in CC No.12647 of 2006 before the Court below.

5. The petitioners who have been arrayed as A9 and A10 are the General Manager for quality control and General Manager for production, who were working in the accused company. These two petitioners are hailing from Bangalore. The petitioners filed an application under Section 205 of Cr.PC to dispense with their appearance and to permit them to be represented through a counsel during the dates of hearing. These applications were dismissed by the Court below mainly on the ground that the calendar case was pending from the year 2006 and earlier non-bailable warrant was also issued against the accused persons and there has been enormous delay in the disposal of the case.



WEB COPY

6. The learned Senior Counsel appearing on behalf of the petitioners submitted that already three witnesses have been examined on the side of the prosecution and an application was filed by the petitioners to recall these witnesses for cross examination and it was also allowed. The learned Senior counsel submitted that these petitioners will be effectively represented through a counsel and the petitioners will not indulge in delaying the case any more. The learned Senior counsel further submitted that the petitioners are residents of Bangalore and hence, their appearance before the Court below need not be insisted for every hearing. That apart, the petitioners will also comply with any conditions imposed by this Court.

7. The learned Additional Public Prosecutor submitted that the calendar case is of the year 2006 and the case has been pending for more than 17 years. The learned Additional Public Prosecutor submitted that some time frame may be fixed by this Court for the completion of the Trial. The Additional Public Prosecutor also insisted that the petitioners must be present before the Court at the time of trial.



WEB COPY

8. Taking into consideration the facts and circumstances of the case and also the reasons that has been assigned by the petitioners and going by the undertaking given by the learned Senior Counsel appearing on behalf of the petitioners, this Court is inclined to interfere with the order passed by the Court below. Accordingly, the order passed in Crl MP Nos.8756 and 8757 of 2023 in CC Nos.12647 of 2006 dated 17.11.2023, is hereby set-aside. The petitioners shall be represented through a counsel and the counsel representing the petitioners shall cross-examine the witnesses on the same day they are examined in Chief. The petitioners shall be present before the Court below at the time of questioning under Section 313(1) (b) of Cr.PC and at the time of passing of the final judgement. The Court below shall dispose of CC No.12647 of 2006 within a period of three months from the date of receipt of a copy of this order.



WEB COPY

9. In the result, both the Criminal Original petitions are allowed with the above directions.

04.01.2024

Index : Yes / No
Internet : Yes / No
Speaking Order : Yes/No
rka

To

1. XV Metropolitan Magistrate, George Town, Chennai

2. State Rep. by

The Drug Inspector – Kilpauk Range I/c.
Drug Control Zone – I,
II Floor, Old S.D.C Office Building,
D.M.S.Campus, 259-261, Annasalai,
Teynampet,
Chennai – 06

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



WEB COPY



7

Crl OP Nos.29271 and 29269 of 2023

N.ANAND VENKATESH, J.,

rka

Crl.O.P.Nos.29271 and 29269 of 2023

Dated: 04.01.2024