



CrI.O.P.(MD) No.2689 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2024

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) No.2689 of 2024

and

CrI.M.P.(MD) No.2082 of 2024

1.Rajan

2.Lila @ Selva lila

...Petitioners

vs

The Inspector of Police,
Tirunelveli Taluk Police Station,
Tirunelveli District.
Crime No.56 of 2022

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying, to call for the records relating to the order passed in Cr.M.P.No. 4175 of 2023 in S.C.No.119 of 2023 by the II Additional Sessions Judge (PCR), Tirunelveli dated 24.01.2024 and set aside the same.

For Petitioners : Mr.D.Venkatesh

For Respondent : Mr.B.Thanga Aravindh
Government Advocate (CrI.side)



CrI.O.P.(MD) No.2689 of 2024

ORDER

WEB COPY

The learned Counsel for the Petitioners submits that the Petitioners are arraigned as accused 6 and 7. It is the contention of the learned Counsel for the Petitioners that P.W15 had in the cross-examination stated that when the Inspector of Police came to the scene of crime, he was accompanied by the dog squad, police photographer and finger print expert. Based on that, the Petitioners/accused wanted to summon the dog squad and finger print expert to adduce evidence as witnesses.

2.It is her further contention that the prosecution had suppressed the evidence or statement of the Officers of the dog squad and the finger print experts, who reached the scene of crime along with the Investigation Officer. When Cr.M.P.No.4175 of 2023 was filed on behalf of the accused to summon the Officers of the dog squad and finger print experts, the prosecution had filed counter resisting the same based on the counter filed by the Investigation Officer stating that he had conducted the investigation, based on the statement of the witnesses and the investigation completed relying on the statement of the witnesses, who incriminated the accused arrayed in this case. Therefore, it is nothing but an attempt by the accused to



CrI.O.P.(MD) No.2689 of 2024

delay the trial. After due enquiry, the learned II Additional Sessions Judge (PCR) Tirunelveli, had dismissed the petition as per order dated 24.01.2024.

Therefore, the Petitioners had filed this Petition seeking to set aside the order passed by the learned II Additional District and Sessions Judge, Tirunelveli and to permit the Petitioners to summon the said witnesses.

3.The learned Government Advocate (CrI.side), on instructions of the Respondent Police, vehemently objected to the submission of the learned Counsel for the Petitioners stating that the order passed by the learned II Additional District and Sessions Judge, Tirunelveli in Cr.M.P.No.4175 of 2023 in SC.No.119 of 2023 dated 24.01.2024 is a well reasoned order. The learned Judge had in the order clearly stated that it is a mandatory procedure in cases of crime to seek the help of dog squad and finger print experts, but the Investigation Officer had relied only the statement of the witnesses. Based on the witnesses only, the Investigation was completed incriminating the accused herein. Therefore, there is no necessity to summon the witnesses sought by the Petitioners/accused 6 and 7.



Crl.O.P.(MD) No.2689 of 2024

4. On consideration of the rival submissions and on perusal of the order, it is found that the learned Judge had relied on the statement of the witnesses furnished in the investigation report by the Investigation Officer laid before the Court concerned. As per the reported ruling of the Hon'ble Supreme Court, the opinion given by the experts are just an opinion. What is stated by the witnesses before the Court only is evidence. Invariably, during trial in criminal cases, the Forensic Experts are not summoned unless and otherwise required. The forensic report is marked through the Investigation Officer. The opinion of the experts only is accepted if the other witnesses are found reliable. If the opinion of the forensic experts does not support the prosecution case, it is ignored by the Trial Court Judges. Still, if the witnesses incriminate the accused, the judgment ends up in conviction. Under those circumstances, the order passed by the learned II Additional Sessions Judge (PCR) Tirunelveli rejecting the request of the Petitioners in the light of the counter filed by the Investigation Officer is found reasonable. It does not warrant any interference by this Court.

5. The learned Government Advocate (Crl.side) also brought to the notice of this Court that the trial proceeded based on the direction issued by



Crl.O.P.(MD) No.2689 of 2024

this Court in Crl.O.P.(MD) No.17317 of 2022 dated 02.11.2022, in which the learned Sessions Judge was directed to dispose of the case within two months. Still, the trial had not been completed, which shows the dilatory tactics employed by the accused. It is to be noted that in the earlier order, there had been directions from this Court in Crl.O.P.(MD) No.10764 of 2023 dated 26.06.2023. Subsequently, on 04.09.2023 directions were issued to the learned Sessions Judge to complete the trial. Therefore, as observed by the learned Trial Judge, it is nothing but a dilatory tactics employed by the accused.

In the light of the above, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Internet: Yes./No
Index: Yes/No
mm

06.03.2024

To

1.The Inspector of Police,
Theppakulam Police Station,
Madurai City.

5/7



Crl.O.P.(MD) No.2689 of 2024

WEB COPY

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD) No.2689 of 2024

SATHI KUMAR SUKUMARA KURUP, J.

mm

CRL.O.P (MD) No.2689 of 2024

06.03.2024