



Crl.R.C(MD)No.668 of 2024
and Crl.M.P.(MD)No.6861 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 10.07.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD)No.668 of 2024
and
Crl.M.P.(MD)No.6861 of 2024

1.Anto Nalliah

2.Jacquin

... Petitioners/Petitioners/Accused Nos.4 & 8

Vs.

State of Tamil Nadu through
The Inspector of Police,
Tirunelveli Taluk Police Station,
Tirunelveli.

(Cr.No.56 of 2022)

... Respondent/Respondent/Complainant

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records pertaining to the order in Cr.M.P.No.1604 of 2024 dated 13.06.2024 in S.C.No.119 of 2023 on the file of the II Additional Sessions Judge, Tirunelveli and set aside the same.

For Petitioners : Mr.S.Bala Karthick

For Respondent : Mr.B.Thanga Aravindh
Government Advocate(Crl.Side)

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ORDER

This Criminal Revision Case has been filed against the order in Cr.M.P.No.1604 of 2024 dated 13.06.2024 in S.C.No.119 of 2023 on the file of the II Additional Sessions Judge, Tirunelveli and set aside the same.

2. The petitioners are arrayed as Accused Nos.3,4,8 in S.C.No. 119 of 2023 on the file of the II Additional Sessions Judge, Tirunelveli. The Learned Trial Judge framed the charges against them under section 114, 149, 147, 148, 294 (b), 302 and 506 (ii) of I.P.C. In the said case, the other accused filed a petition in Crl.O.P.(MD).No. 2689 of 2024 under section 91 of C.P.C. to call for the report from the Fire Service Office and the Government photographer expert. In the said petition, it is stated that the investigating agency intentionally converted the circumstantial evidence case into eye witness account case by fabricating the evidence. To prove the same, they sought the report from the Fire Service Office, Government photographer by calling for the same and the said petition was dismissed. Thereafter, the trial was conducted and posted for the defense witness. At that time, the petition under Section 243 of Cr.P.C. was filed to call the said persons to examine them on their side. The same was dismissed



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by the Learned Trial Judge stating that already the similar prayer was made under different section and in order to protract the completion of the trial, they filed the present petition.

3. The Learned counsel for the petitioners stated that the investigating agency wrongly projected this case as eye witness account case. There is no eye witness. To substantiate the same, the examination of the witnesses from the fire service office, government photographer, inspector of police, Taluk Station, Tirunelveli are necessary as they are material witnesses. Therefore, the Learned counsel seeks to allow the said petition.

4. The learned Government Advocate (Crl. Side) on instructions, submitted that the plea of the petitioner that the case was based on the circumstantial evidence is not correct. Even at the initial stage of investigation itself, the investigating agency recorded the statement of the eye witnesses and the reliability of the said witnesses has to be considered at the time of the trial. The examination of the petition mentioned witnesses are not relevant and in order to prolong the case they filed the said petition. The said relief was also declined by this court in Crl.O.P.(MD).No. 2689 of 2024 and hence he seeks for dismissal of revision.



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5. This Court considered the rival submission on either side and perused the material available on record.

6. On going through the statement recorded under section 161 (3) of Cr.P.C., the investigating agency correctly treated the witnesses as eye witnesses and the case of the petitioner that they are not eye witnesses is not established through the examination of the above said witnesses in the course of trial. The said relief also earlier declined by this court in Crl.O.P.(MD).No. 2689 of 2024. Therefore, this court finds no merit in this revision.

7. Accordingly this criminal revision petition is dismissed. Consequently connected miscellaneous petition is also closed.

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NCC : Yes/No
Index : Yes/No
Internet: Yes/No

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To

- 1.The learned II Additional Sessions Judge, Tirunelveli.
- 2.The Inspector of Police,
Tirunelveli Taluk Police Station,
Tirunelveli.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 4.The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

RJR

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