



CrI.O.P.(MD)No.16271 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

CrI.O.P.(MD)No.16271 of 2024

1.C.Petchimuthu

2.Poonkodi

3.Dhunesh Kumar

... Petitioners

Vs.

1.The Deputy Superintendent of Police,
Bodinayakanur Sub-Division,
Bodi Taluk PS,
Theni.
(Crime No.689 of 2018)

2.The Inspector of Police,
Bodi Taluk PS,
Theni.
(Crime No.689 of 2018)

3.Mani

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to set aside the order passed by the learned Special Court for SC/ST (POA) Act, Theni in CrI.M.P.No.861 of 2024 in Spl.S.C.No.156 of 2020



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dated 11.09.2024 and permit the petitioners to cross examine P.W.1 to P.W.7.

For Petitioner : Mr.A.Nareshprabu
For R1 & R2 : Mr.P.Kottai Chamy
Government Advocate (Crl. Side)

ORDER

This criminal original petition has been filed seeking orders to set aside the order passed by the learned Special Court for SC/ST (POA) Act, Theni in Crl.M.P.No.861 of 2024 in Spl.S.C.No.156 of 2020 dated 11.09.2024 and permit the petitioners to cross examine P.W.1 to P.W.7.

2.It is seen from the records that the petitioners are accused in Spl.S.C.No.156 of 2020 for the alleged offence under Sections 294(b), 323, 506(i) IPC r/w Sections 3(1)(r), 3(1)(s) SC/ST (POA)Act. It is not in dispute that the prosecution has already examined 9 witnesses and when the case was pending for examination of other witnesses, the



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present petition came to be filed to recall P.W.1 to P.W.7 for cross examination. It is also not in dispute that P.W.1 to P.W.4 have been examined in chief on 25.06.2024 and P.W.5 to P.W.7 have been examined in chief on 13.08.2024.

3.The main contention of the petitioners is that they were unable to cross examine witnesses on the date of chief examination, due to insufficient materials and case related documents and that immediately thereafter, they have filed the present petition to recall P.W.1 to P.W.7.

4.When the matter is taken up for hearing today, the learned counsel appearing for the petitioners would submit that the petitioners are restricting their prayer only with regard to the recalling of P.W.1 to P.W.6. But at the same time, the reasons assigned by the learned trial Judge cannot be found fault with. However, the facts remains that the petitioners sought for recalling of P.W.1 to P.W.6 not for further cross examination, but for cross-examination.



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5.Considering the above, this Court is of the view that the petitioners should be given one more opportunity to cross examine P.W.1 to P.W.6, in order to prove their alleged defence, but at the same time, this Court is of the further view that the petitioners must be mulcted with costs.

8.In the result, the Criminal Original Petition stands allowed and the impugned order, dated 11.09.2024 passed in Crl.M.P.No.861 of 2024in S.C.No.103 of 2021 on the file of the Special Court for SC/ST (POA) Act, Theni is set aside in respect of P.W.1 to P.W.6 alone and the petition to recall P.W.1 to P.W.6 is allowed on payment of cost of Rs.3,000/- each to the witnesses and a sum of Rs.5,000/- to the credit of Legal Service Authority attached to Theni District within a period of one week from the date of receipt of copy of this order and on payment of process fee and batta to the said witnesses and on further condition that the petitioners' side should cross examine the witnesses whenever the witnesses are produced before the Court and in case of the petitioners' failure to cross examine the particular witness, then they will forfeit their rights to cross examine the witnesses. The trial Court is directed to



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summon P.W.1 to P.W.6 for the purpose of cross examination and complete the examination of the said witness within one month from the date of receipt of copy of this order and further directed to complete the entire trial, within two months thereafter.

26.09.2024

Index : Yes / No

Internet : Yes / No

gns

To

1.The Special Court for SC/ST (POA) Act, Theni

2.The Deputy Superintendent of Police,
Bodinayakanur Sub-Division,
Bodi Taluk PS, Theni.

3.The Inspector of Police,
Bodi Taluk PS, Theni.

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



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K.MURALI SHANKAR,J.

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