



CrI.O.P.(MD)No.2081 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.02.2024

CORAM :

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CrI.O.P.(MD)No.2081 of 2024

and

CrI.M.P.(MD)No.1568 of 2024

1. Marudhaiyah Pandian

2. Rajendran

... Petitioners

Vs.

1. State represented by
The Deputy Superintendent of Police,
Pulilyangudi,
Tenkasi District.

2. State represented by
The Inspector of Police,
Chokkampatti Police Station,
Tenkasi,
Tenkasi District.
(Crime No.24 of 2013)

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to call for the records relating to the order dated 03.11.2023 passed in Cr.M.P.No.448 of 2023 in S.C.No.31 of 2014 on the file of Additional District Court (FTC), Tenkasi and set aside the same as illegal.



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For Petitioner : Mr.V.George Raja
for M/S.Ajmal Associates

For Respondents : Mr.B.Thanga Aravindh
Government Advocate (Crl. side)

ORDER

The learned Counsel for the Petitioner submitted that this petition had been filed seeking to set aside the order passed by the learned Additional District and Sessions Judge (Fast Track Court) Tenkasi in Cr.M.P No.448 of 2023 in S.C.No.31 of 2014.

2.The learned Counsel for the Petitioner submitted that the A-1 is the retired Deputy Superintendent of Police. Also he submitted that due to his age related health issues, the first Petitioner is unable to appear before this Court. Subsequently, the Petitioners had filed a petition under Section 311 Cr.P.C seeking to recall witnesses P.W.1 to P.W.5. The learned Additional District and Sessions Judge (Fast Track Court), Tenkasi had dismissed the petition on the ground that the petition had been filed by the petitioner belatedly. It is his further submission that the right of defence of the accused is affected by the refusal to recall witnesses.



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3.The submission of the learned Counsel for the Petitioners cannot be accepted in the light of the order passed by the learned Additional District and Sessions Judge (Fast Track Court), Tenkasi, stating that the petition had been filed after 8 years of examination of the witnesses. It had been clearly stated that the witnesses were examined on 06.01.2013. Also the learned Additional District and Sessions Judge (Fast Track Court), Tenkasi, had pointed out that the case arose out of case and counter case. The reason putforth by the Petitioner for recalling the witnesses after six years is stated to be due to the pending of case and counter before the same Court. The learned Additional District and Sessions Judge (Fast Track Court), Tenkasi, had objected to the attempt of the Petitioner to recall witnesses after six years and it cannot be altered by this Court.

4.In the light of the reported ruling of the Hon'ble Superme Court in the case of ***Vinod Kumar vs State of Punjab in 2015(1) MLJ (crl) 288 (SC)***, in which judgment was circulated across the Country to all the Trial Judges through the respective High Courts along with the direction that any deviation will invite disciplinary proceedings against the Trial Judges. When that would be the situation, the Trial Judges are cautious enough not to exercise power under Section 311 Cr.P.C., to recall witnesses in criminal



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cases to the whims and fancies of the accused and their Counsels. It may end up in disciplinary proceedings against the Trial Judges. The Trial Judges are careful enough to restrict the power to recall of witnesses. Under these circumstances, exercising inherent powers of the High Court under Section 482 Cr.P.C., cannot be invoked to dilute the judgments of the Hon'ble Supreme Court, which had warned the Trial Judges not to recall witnesses and delay the trial.

5.The submission of the learned Counsel for the Petitioners is found contrary to the ruling of the Hon'ble Supreme Court which was circulated across the Country to all Trial Judges. Under these circumstances, this petition has no merits.

6.Hence, this Petition is dismissed. Consequently, connected miscellaneous petition is closed.

12.02.2024

Index : Yes/No

Internet:Yes/No

jbr



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To

- 1.The Deputy Superintendent of Police,
Pulilyangudi,
Tenkasi District.
- 2.The Inspector of Police,
Chokkampatti Police Station,
Tenkasi,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.,

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