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Crl.O.P.No.5731 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.5731 of 2025

1. Raju Uttam Shinde
2. Vijay Uttam Kamble
3. Rabindranath Kar

... Petitioners

Vs.

State Rep. By
The Inspector of Police
C-2, Elephant Gate Police Station
Chennai
(Crime No.916 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the order made in Crl.M.P No.391 of 2025 in S.C.No.315 of 2021 by an order dated 01.02.2025 passed by the learned I Additional District and Sessions Judge, Chennai.

For Petitioners : Mr.G.Pugazhenth

For Respondent : Mr.K.M.D.Muhilan

Government Advocate (Crl.side)



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ORDER

This Criminal Original Petition is filed to set aside the order made in Crl.M.P No.391 of 2025 in S.C.No.315 of 2021 by an order dated 01.02.2025 passed by the learned I Additional District and Sessions Judge, Chennai.

2. The case of the petitioners is that they are accused Nos.3, 5 and 6 in S.C.No.315 of 2021, in the case of murder of three persons. The petitioners and other five accused stood charged for the offence under Sections 302 IPC and Sections 27(3) 29(b) and 30 of Arms Act 1959. After completion of arguments on the side of prosecution, the petitioners have filed petition under Section 311 Cr.P.C., to recall PW-23, so as to cross examine the said witnesses to the extent of his identity in the CCTV footage and PW-51 and PW-59 so as to cross examine in the aspect of recognised Forensic Science Laboratory regarding the examination of electronic devices. After hearing the parties, the learned I Additional District and Sessions Judge, Chennai, dismissed the petition filed by the petitioners on 01.02.2025. Hence, the petitioners have filed



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the present petition.

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3. Heard both sides and perused the materials available on record.

4. On a perusal of the records, it appears that PW23 is the eye-witness and during the cross examination, he deposed that A-4 along with four other persons entered the place of occurrence, which was also proved through CCTV footages. It is also stated that PW-51, who is Anthropologist, had examined Ex-P8, Pendrive containing 12 videos with photos of A1 to A6. The photo of a women in the video, noted as A1 could not be identified as she was wearing a face mask. Therefore, it does not mean that the women in the video could not be identified or compared with the given photos at all. PW-23 appeared in the video footage and also noted by the Trial Court as identified by PW-59, and other accused persons were also cross examined and the defense counsel had cross examined PW59 as to why he has not subjected PW23 to anthropology test, for which, he stated that since he had examined the witness in person and the witness himself admits of seeing the accused



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then it is not necessary for any anthropology test to identify PW23. PW-59 had investigated the case and found that PW23 had witnessed and seen the accused, particularly Accused No.4 along with four other persons who were entering the place of occurrence.

5. It is seen that, all the accused persons altogether had appointed two set of counsel to defend themselves. At every instance one set of counsel adopts the cross examination of the other set of counsel for the defence. Further, the case of the defence is that a person seen allegedly carrying water cans and pushing a tricycle is the PW-23 and not the person sitting, standing and speaking over mobile phone. Having failed to disprove the same and even during their questioning under Section 313(1)(b) of Cr.P.C., now the petitioners come with the present petition to re-call PW23, PW51 and PW59, only to drag on the proceedings. In fact, already the trial Court has dismissed the petition in Crl.M.P.No.558 of 2024 filed by the other accused and the same was challenged in Crl.O.P.No.8036 of 2024, which was dismissed by this Court vide order dated 03.04.2024. In view of the above, this Court does not find valid



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grounds to interfere the order passed by the Trial Court.

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6. Accordingly, the Criminal Original Petition is dismissed.

28.02.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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To

1. I Additional District and Sessions Judge
Chennai
2. The Inspector of Police
C-2, Elephant Gate Police Station
Chennai
3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

jd

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