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Crl.O.P.No.18797 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2025

CORAM:

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

Crl.O.P.No.18797 of 2024

1. Bhuvana
2. Pradeep

... Petitioners

Vs.

State Rep. by its
The Inspector of Police (Crime),
D-1, Triplicane Police Station,
Chennai – 600 002.

... Respondent

Prayer: Criminal Original petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the orders passed in Crl.R.C.No.14 of 2024 dated 18.06.2024 by the learned Principal Judge, City Civil Court, Chennai and confirming the order in Crl.M.P.No.5157 of 2024 dated 14.02.2024 on the file of the learned II Metropolitan Magistrate, Egmore, Chennai.

For Petitioners : Mr.M.Shreedhar

For Respondent : Mr.K.M.D.Muhilan
Government Advocate (Crl. Side)



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ORDER

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This petition has been filed challenging the order dated 18.06.2024 passed by the learned Principal Judge, City Civil Court, Chennai, in Crl.R.C.No.14 of 2024, confirming the order dated 14.02.2024 passed by the learned II Metropolitan Magistrate, Egmore, Chennai, in Crl.M.P.No.5157 of 2024, thereby dismissing the petition filed under Section 311 of Cr.P.C., to recall P.W.2 & P.W.7 for cross examination.

2. The petitioners are the accused and they are facing trial in C.C.No.7051 of 2019 for the charges under Section 380 of IPC. The prosecution had examined all the witnesses and now the case is posted for arguments. At that juncture, the petitioners filed petition under Section 311 of Cr.P.C., to recall P.W.2 & P.W.7 for cross-examination. The petitioners had already examined P.W.2 & P.W.7 at length on 27.12.2021 & 16.10.2023. Now the petitioners once again filed petition to recall them for further cross-examination. It is was dismissed by the trial Court and also confirmed by the Revision Court.



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3. The learned counsel appearing for the petitioners submitted

that the petitioners may be given one more chance to cross-examine P.W.2 & P.W.7 to prove his case. In support of his contention, he relied upon the judgment of the Hon'ble Supreme Court of India in ***SLP(Criminal) No.7968 of 2016*** dated ***28.01.2025***, in the case of ***Rampal Gautam & ors Vs. The State***, which held that the complainant is left at liberty to take recourse of the suitable remedy for ventilating her grievances which would include filing of an application under Section 311 of Cr.P.C.

4. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

5. On perusal of records revealed that the petitioners are the accused and they have fully cross-examined P.W.2 and P.W.7, as early as on 27.12.2021 and 16.10.2023 respectively. Further, in the above judgment the Hon'ble Supreme Court of India held in different circumstances that new records found by the defacto complainant and therefore the complainant can request the order under Section 311 of Cr.P.C. Therefore, the judgment cited by the learned counsel appearing



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for the petitioners is not at all applicable to the case on hand. This Court

finds no infirmity or illegality in the order passed by the Courts below.

The trial Court viz., learned II Metropolitan Magistrate, Egmore, Chennai, is directed to dispose the case C.C.No.7051 of 2019, within a period of twelve weeks from the date of receipt of a copy of this Order.

6. Accordingly, the Criminal Original Petition stands dismissed.

07.02.2025

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

rts



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To

1. The Principal Judge,
City Civil Court, Chennai.
2. II Metropolitan Magistrate,
Egmore, Chennai.
3. The Inspector of Police (Crime),
D-1, Triplicane Police Station,
Chennai – 600 002.
4. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN, J.

rts

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