

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2016

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

CrI.O.P. No.22832 of 2016

and CrI.M.P.No.10659 of 2016

Maheswaran

... Petitioner/Accused

Vs.

State rep by
The Inspector of Police
Vennathur P.S.
Namakkal

... Respondent/Complainant

Criminal Original Petition filed under Section 482, Cr.P.C. to call for the records pertaining against the order dated 26.09.2016 in Cr.M.P.No.459 of 2016 in ***S.C.No.111 of 2015** on the file of the learned Sessions Judge, Fast Track, Magalir Neethimandram, Namakkal and directed to recall the witness from P.W.8 to P.W.11 are important and material witness whose evidence is to be tested by the way of cross examination.

For petitioner Mr.S.Manoharan

For Respondent Mr.C.Emalias

Additional Public Prosecutor

ORDER

This petition has been filed to call for the records pertaining to the order dated 26.09.2016 in Cr.M.P.No.459 of 2016 in ***S.C.No.111 of 2015** on the file of the learned Sessions Judge, Fast Track, Magalir Neethimandram, Namakkal and direct to recall P.W.8 to P.W.11.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the State.

3. The petitioner is facing prosecution in ***S.C.No.111 of 2015** before the Sessions Judge, Fast Track Mahila Court, Namakkal for offences u/s 302 and 449 IPC. The prosecution examined P.Ws.8 to 11 on 01.09.2016 and on that date, the learned counsel for the accused reached the Court late, on

account of which he was not able to cross examine the witnesses. It appears that he had filed a petition to advance the hearing and recall the witnesses on the very next day, viz., 02.09.2016. The trial Judge had dismissed the petition on 26.09.2016, challenging which the petitioner is before this Court.

4. Mr.S.Manoharan, learned counsel for the petitioner submitted that P.Ws.8 and 9 are independent witnesses and P.Ws.10 and 11 are official witnesses and the petitioner has been cross examining the other witnesses diligently without taking any adjournment. On account of the aforesaid reason, the petitioner was not able to cross examine P.Ws.8 to 11. This Court does not find any serious infirmity in the order passed by the learned trial Judge.

5. Taking into consideration the fact that the petitioner is facing trial for a capital offence and that the petitioner has been diligently cross examining other witnesses, this Court is of the view that it would serve the interest of justice if one more opportunity is given to the petitioner, of course with costs.

6. In the result, the order dated 26.09.2016 in Cr.M.P.No.459 of 2016 is set aside and the petitioner is directed to deposit Rs.2,000/- [Rs.500/- per witness] before the trial Court within one week from the date of receipt of a copy of this order, and on such deposit, the trial Court shall fix a date and recall P.Ws.8 to 11. On that day, the petitioner shall cross examine the witnesses, failing which his right to cross examine stands forfeited. On the appearance of the witnesses, the costs of Rs.500/- shall be paid to them.

With the above direction, this petition is ordered. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

Dated : 25.10.2016

***Corrected as per order of this
court dated 17.11.2016 in
Cr1.M.P.No.12228 of 2016 in
Cr1.O.P.No.22832 of 2016
Sd/- Assistant Registrar(CO)
Dated : 23.11.2016**

True Copy

Sub-Assistant Registrar

To

1.The Sessions Judge,
Fast Track, Magalir Neethimandram,
Namakkal.

2.The Inspector of Police
Vennathur P.S.
Namakkal.

3.The Public Prosecutor,
High Court, Madras.

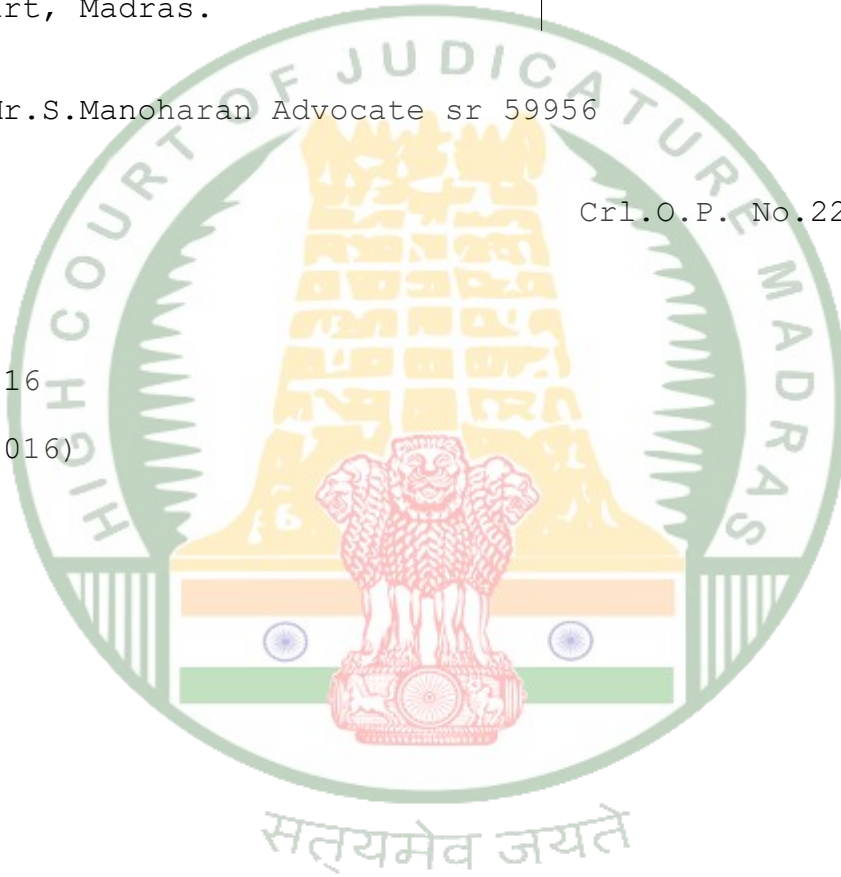
To be Substituted to the
order already despatched
on 25.10.2016

+1 cc to Mr.S.Manoharan Advocate sr 59956

Crl.O.P. No.22832 of 2016

msm(co)
aa25/10/2016

CA(23.11.2016)



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