



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.06.2016

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

Crl.O.P(MD)No.9178 of 2016

WEB COPY

1.Karuthama
2.Pandi

.. Petitioners

.Vs.

1.State rep. by
Sub Inspector of Police
Thirunagar Police Station
Madurai
(in Crime No.243/2011)2.Srinivasan
S/o.Subba Naicker
Kanchappa Naickenpatti
Aruppukottai
Virudhunagar District.

.. Respondents

PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C., praying to call for the records in C.C.No.426 of 2011 on the file of the learned Judicial Magistrate, No.6, Madurai and set aside the order passed by the learned Judicial Magistrate No.6, Madurai in Cr.M.P.No.1021 of 2016 dated 28.04.2016 and consequently allow the petitioners to cross examine PW1 to PW3 and PW10.

For Petitioner :Mr.A.D.Jagdish Chandra

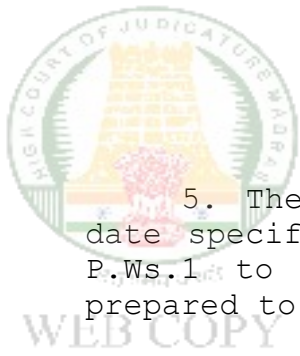
For Respondent :Mr.A.P.Balasubramani
Govt. Advocate(Crl. Side)**ORDER**

This petition has been filed seeking a direction to set aside the order passed by the learned Judicial Magistrate, NO.6, Madurai in Cr.M.P.No.1021 of 2016 dated 28.04.2016, whereunder permission to recall P.Ws.1 to 3 and P.W.10 for cross examination has been dismissed by the Court.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) for R1.

3. The learned counsel for the petitioner would submit that A1 to A3 on one hand and A4 and A5 on the other hand are taking different defences and during cross examination, questions were omitted to be put regarding A4 and A5 and that is the reason for recalling P.Ws.1 to 3.

4. The learned Government Advocate (Crl. Side) objected the recall on the ground that already there were directions by this Court for speedy disposal of this case and that this petition has been filed only to drag on the proceedings.



5. The learned counsel for the petitioner would submit that on a date specified by this Court without seeking any further adjournments, P.Ws.1 to 3 would be cross examined and the petitioners are also prepared to pay cost to the witnesses to be recalled.

6. Considering the undertaking given by the learned counsel for the petitioner and considering the necessity of further cross examination of P.Ws.1 to 3, this Court is of the view that by imposing suitable conditions, the order passed by the learned Judicial Magistrate, NO.6 is to be set aside. Subject to payment of cost of Rs.250/- to each of the witnesses, viz., P.Ws.1 to 3 and subject to the petitioners cross examining the witnesses on 28.06.2016, P.Ws.1 to 3 are permitted to be recalled for further cross examination. P.W.10 being the official witness, the necessity of recalling is not accounted for and therefore, the order refusing to cross examine P.W.10 is sustained.

7. In the result, the order passed by the learned Judicial Magistrate, No.VI, is partly set aside, and P.Ws.1 to 3 are permitted to be recalled and the date of hearing is fixed as 28.06.2016. (Subject to payment of cost of Rs.250/- (Rupees two hundred and fifty only) to each of the witnesses to be paid by the petitioners). It is made clear that accused shall not take unnecessary adjournments before the Judicial Magistrate, NO.VI, and will ensure cooperation for the completion of directions issued by this Court.

Sd/
Assistant Registrar(AS)

/TRUE COPY/

Sub Assistant Registrar

To

1.The Judicial Magistrate, NO.VI
Madurai.

2.The Sub Inspector of Police
Thirunagar Police Station
Madurai

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

+1cc to M/S.A.D.Jegadish Chandra, Advocate in SR.No.31160

Cr1.O.P(MD)No.9178 of 2016
16.06.2016

RR

PA/AAL-MPA/SAR III/20.06.2016/2P/5C (IT)