

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2017

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Crl.O.P.No.8294 of 2017
and
Crl.M.P.No.5955 of 2017

Nandagopan

... Petitioner

Vs

State rep.by
Station House Officer,
CSCID/Cuddalore Police Station,
Cuddalore District.

... Respondent

Petition filed under Section 482 of the Criminal Procedure Code, to call for the records in C.C.No.49 of 2012 and to set aside the order dated 24.03.2017 passed by the learned Judicial Magistrate No.1, Cuddalore in Crl.M.P.No.3716 of 2016 pending on the file of the learned Judicial Magistrate No.1, Cuddalore.

For Petitioner : Mr.P.Palani Nathan

For Respondent : Mr.C.Emalias,
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to call for the records in C.C.No.49 of 2012 and to set aside the order dated 24.03.2017 passed by the learned Judicial Magistrate No.1, Cuddalore in Crl.M.P.No.3716 of 2016.

2.When the petitioner's Maruti 800 car bearing Regn.No.PY-01-BC-7291 was crossing the Naduchavadi-Seriyangkuppam Road near the border of Tamil Nadu, the same was intercepted by the Inspector of Police attached to the Public Food Distribution Crime Investigation Wing of Cuddalore, and 50 Kgs of rice were seized from the car on the ground that the said rice was meant for public distribution. The petitioner was also arrested. The matter went up to Trial Court and the petition filed under Section 311 Cr.PC by the petitioner before the Trial Court to cross-examine P.Ws.3 and 10 was rejected on the ground that the said cross examination is not necessary. Hence this Criminal Original Petition.

3.Mr.C.Emalias, learned Additional Public Prosecutor, takes notice for the respondent.

4.While dismissing the petition filed under Section 311 of Cr.PC, the Trial Court has held that the petitioner has not assigned valid reasons to recall the witnesses. But in the petition filed before the Trial Court, the petitioner has stated that P.W.3 has not been cross examined due to the ill health of the petitioner's counsel. Further, the learned counsel for the petitioner submits that reasonable opportunity has not been granted to cross examine P.Ws.3 and 10. Considering the facts and circumstances of the case, this Court is inclined to set aside the order dated 24.03.2017 passed by the learned Judicial Magistrate No.1, Cuddalore in CrI.M.P.No.3716 of 2016 in C.C.No.49 of 2012, on condition that a sum of Rs.3,000/- (Rupees Three Thousand Only) shall be paid by the petitioner as cost to the District Legal Services Authority, Cuddalore. The cross examination of P.Ws.3 and 10 shall take place on 09.05.2017. No further petition under Section 311 Cr.PC be entertained by the Trial Court. If the petitioner fails to utilise this opportunity, the Trial Court shall proceed with the trial.

5.The Criminal Original Petition is disposed of accordingly. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

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To

Sub Assistant Registrar

1. The Station House Officer,
CSCID/Cuddalore Police Station,
Cuddalore District.
2. The Judicial Magistrate No.I,
Cuddalore.
3. The District Legal Services Authority,
Cuddalore.
4. The Public Prosecutor,
Madras High Court, Chennai-600 104.

+1cc to Mr.P.Palaninathan, Advocate, S.R.No.25104

CrI.O.P.No.8294 of 2017
and CrI.M.P.No.5955 of 2017

SSI(CO)
CA(02/05/2017)