



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:04.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P.(MD)No.12714 of 2017 and
CrI.M.P(MD).No.8802 of 2017

Govindan @ Govindaraj

: Petitioner

-Vs-

State rep. by
The Inspector of Police,
Civil Supply CID Police Station,
Karur. (Crime No.606 of 2010)

: Respondent

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, praying to call for the records of the learned Chief Judicial Magistrate No.I, Karur, in Cr.M.P.No.3867 of 2017 in C.C.No.287 of 2011 and set aside the order dated 11.08.2017.

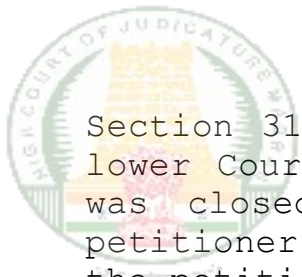
For Petitioner : Mr.S.Mahendrapathy
For Respondent : Mr.K.S. Duraipandian
Government Advocate(Crl.Side)

O R D E R

This petition is filed to set aside the order passed by the learned Judicial Magistrate No.I, Karur, dated 11.08.2017 in C.M.P.No.3867 of 2017 in C.C.No.287 of 2011.

2. The petitioner is the accused in criminal case registered for the offences under Section 6(4) of Tamil Nadu Scheduled Commodities (RDSCS) Order 1982 r/w. Section 7(1)(a)(ii) of Essential Commodities Act, 1955 in Crime No.606 of 2010.

3. The petitioner originally filed C.M.P.No.447 of 2017 to recall PW.1 to PW.4. Though the petition was allowed latter closed as the petitioner failed to pay the process fee for PW.1 to PW.4. The petitioner once again filed another petition in CMP.No.16 of 2017 to recall PW.7 and the same was also allowed on 04.04.2017. Yet another petition filed by the petitioner in CMP.No.3218 of 2017 to recall PW5 and PW.6 was also allowed. Since the petitioner has not paid the process fee for cross examination of PW.7, the petition to recall PW.7 was also closed. Thereafter, once again the petitioner filed a petition under



Section 311 of Cr.P.C to recall PW.7 for cross examination. The lower Court after recording the fact that the similar application was closed on account of non payment of process fee by the petitioner in time, observed further that there in no bonafides in the petition to recall PW.7 and dismissed the same.

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4. Though this Court does not find any irregularity in the order passed by the trial Court, considering the submission of the learned counsel appearing for the petitioner that cross examination of PW.7 is important for the defence side and that fair opportunity should be given to the petitioner to defend the criminal case, this Court is inclined to allow this petition on terms:-

Accordingly, the order passed by the learned Judicial Magistrate No.I, Karur in Cr.M.P.No.3867 of 2017 in C.C.No.287 of 2011 is set aside and the application filed by the petitioner under Section 311 of Cr.P.C in Cr.M.P.No.3867 of 2017 in C.C.No.287 of 2011 stands allowed subject to the condition that the petitioner pays a sum of Rs.10,000/- (Rupees Ten Thousand only) to the respondent by way of cost and the petitioner is also directed to cross examine the PW.7 on the day when the witness is made available for cross examination without seeking any further adjournment on any ground. The amount received by the second respondent by way of cost may be utilized for installation of RO plant in the Police Station. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar.

To

1.The Inspector of Police,
Civil Supply CID Police Station,
Karur.

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

+1CC to Mr.S.Mahendrapathy, Advocate, SR.No.81740

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