



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.04.2018

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

CrI.O.P.(MD) No.5735 of 2018 and
CrI.M.P.(MD).No.2754 of 2018

Raja

.. Petitioner/1st Accused

-Vs-

The State rep. by
The Inspector of Police,
All Women Police Station,
Nagercoil,
Kanyakumari District.

.. Respondent/Complainant

Prayer: Criminal Original petition is filed under Section 482 Cr.P.C., to set aside the order passed by the Judicial Magistrate Court No.II, at Nagercoil, Kanyakumari District in C.M.P.No.6078 of 2017 in C.C.No. 48 of 2012 on 03.03.2018 and consequently, direct the Judicial Magistrate Court No.II at Nagercoil, Kanyakumari District to recall PW.1 and PW.2 to be cross examined by the defence side.

For Petitioner : Mr.L.Victoria Gowri

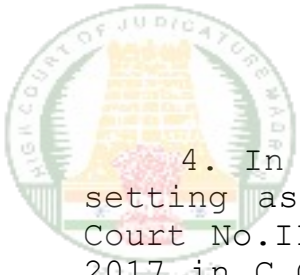
For Respondent : Mr. Prabhu Ramachandran
Government Advocate (CrI. Side)

O R D E R

The petitioner is facing trial in C.C.No.48 of 2012, on the file of the learned Judicial Magistrate No.II at Nagercoil, Kanyakumari District.

2. In this case, the prosecution witnesses viz., PW.1 and PW.2 were originally examined and again recalled for examination at the instance of the prosecution. It is seen that on such recall, the said witnesses had given a version not in consonance with their earlier deposition. On the dates, when the PW.1 and PW.2 were recalled, the accused could not cross examine them, since witnesses in question were recalled only at the instance of the prosecution.

3. This Court is of the view that they can be given one more opportunity to recall the said witnesses for the purpose of cross examination, as the accused are entitled to fair trial.



4. In the result, this Criminal Original Petition is allowed by setting aside the order passed by the learned Judicial Magistrate Court No.II, at Nagercoil, Kanyakumari District in C.M.P.No.6078 of 2017 in C.C.No. 48 of 2012 on 03.03.2018 and issuing the direction as prayed for. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate Court No.II,
Nagercoil, Kanyakumari District.

2.The Inspector of Police,
All Women Police Station,
Nagercoil,
Kanyakumari District.

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

+1cc to M/S.L.Victoria Gowri, Advocate SR.No. 61256

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13.04.2018

trp

JM/SV MMS/SAR 2/08.05.2018/2P/5C