



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2018

CORAM:

WEB COPY

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.(MD)No.23614 of 2016

and

CRL.M.P.(MD)No.12450 of 2016

Palanikumar

... Petitioner/Accused

-Vs-

The State rep. by its Inspector of Police,
Melavalavu Police Station,
Madurai District.
Crime No.142 of 2015

... Respondent/Complainant

Prayer: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to set aside the order, dated 20.10.2016, made in C.M.P.No.5062 of 2016 in C.C.No.120 of 2015 on the file of the learned Judicial Magistrate, Melur.

For Petitioner	: Mr.S.Gangatharan
For Respondent	: Mr.K.Suyambulinga Bharathi Government Advocate (Crl. Side)

ORDER

This petition has been filed by the petitioner challenging the order passed by the Court below in dismissing the application filed under Section 311 of Cr.P.C to recall and cross examine PW1 and PW2.

2.It is seen from the records that the petitioner has already cross examined PW1 and PW2. The only reason that has been assigned to recall PW1 and PW2 is that the Advocate has not put some questions to PW1 and PW2 in the course of cross examinations. PW1 and PW2 were examined on 16.09.2016 and thereafter this petition has been filed before the Court below immediately on 20.10.2016. The Court below has dismissed the said application.

3.In the facts and circumstances of the case, this Court is of the view that another opportunity must be given to the petitioner. More particularly, due to the fact that PW1 and PW2 were cross examined on 16.09.2016 and immediately thereafter on 20.10.2016 the present petition came to be filed for further cross examination of PW1 and PW2. The petitioner is facing trial for the offences under Sections 294 (b), 342 and 506(i) of IPC and therefore the petitioner has to defend himself and a fair



opportunity must be given to him for the said purpose.

4. In fine, the order passed by the Court below in C.M.P.No.5062 of 2016 is hereby set aside. The Court below shall fix a date for appearance of PW1 and PW2. Before putting the witness into the witness box they shall be furnished with the deposition, so that they can refresh their memory and thereafter they should be subject to cross examination on that day. When the witnesses appear, if the accused fails to cross examine them, he will forfeit his right to recall them again. The Court below is directed to complete the entire exercise as expeditiously as possible. The Court below is further directed to complete the proceedings in C.C.No.120 of 2015 within a period of three months from the date of receipt a copy of this Order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

Sub Assistant Registrar (CS-I)

To

1. The Judicial Magistrate, Melur.

(Report Compliance of this
order after completion of the proceedings)

2. The Inspector of Police,
Melavalavu Police Station,
Madurai District.

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

CRL.O.P. (MD) No.23614 of 2016

03.09.2018

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