



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.12.2018

CORAM:

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THE HONOURABLE MR. JUSTICE A.D. JAGADISH CHANDIRA

Crl.O.P.(MD).No.22293 of 2018
and
Crl.M.P(MD)No.10432 of 2018

1.P.Marutheeswaran
2.Pandi
3.Sangili Raja

... Petitioners/Petitioners/
Accused Nos.1 to 3

Vs.

State through the
Inspector of Police,
Pattiveeranpatti Police Station,
Dindigul District.

... Respondent/Respondent/
Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the order, dated 16.07.2018 made in Crl.M.P.No.29/2018 in S.C.No.11 of 2015, on the file of the learned Principal Sub Judge, Dindigul and set aside the same in so far as the rejection of the recall the prosecution witnesses Nos.P.W.1, P.W.2, P.W.3, P.W.7.

For Petitioners : Mr.K.Manikandan
For Respondent : Mr.A.Robinson,
Government Advocate (Crl.side)

ORDER

This Criminal Original Petition has been filed to call for the records pertaining to the order, dated 16.07.2018 made in Crl.M.P.No.29 of 2018 in S.C.No.11 of 2015 passed by the Principal Sub Judge, Dindigul and to set aside the same in so far as the rejection of the petition to recall the prosecution witnesses Nos.P.W.1, P.W.2, P.W.3 and P.W.7.

2.The learned counsel appearing for the petitioner would submit that the petitioners are the accused Nos.1 to 3 in S.C.No.11 of 2015 pending on the file of the Principal Sub Judge, Dindigul for the offences under Sections 294(b), 341, 307 r/w 34 of IPC. He would further submit that on 18.02.2016 P.Ws.1 to 3 were examined on the side of the prosecution and on 26.09.2016 P.W.7 was examined on the side of the prosecution. Since the petitioners were unable to cross-examine them on the same day, the petitioners had filed a



petition in CrI.M.P.29 of 2018 under Section 311 Cr.P.C., to recall the P.Ws.1 to 3 and P.W.7 and the learned trial Judge was pleased to allow the petition on condition that the petitioner shall make a payment of Rs.1,000/- on or before 13.07.2018 and the case was adjourned to 16.07.2018.

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3.The learned counsel appearing for the petitioners further submitted that the petitioners being a daily wagers were unable to pay the amount within the stipulated time due to their poor financial status. However, they have paid the amount on 16.07.2018. On 16.07.2018 the learned Trial Judge had denied the permission to cross-examine the witnesses stating that the conditional order was not complied with within the time. He would pray that a direction may be issued to the learned trial Judge to permit the petitioner to cross-examine the witnesses P.W.1 to 3 and P.W.7 on imposition of terms and costs.

4.This Court enquired the Government Advocate (CrI.side) with regard to the status of the case and he would submit that the case is still in the stage of trial and posted on 17.01.2019 for cross-examination of P.W.10, P.W.11 and P.W.12. He would further submit that the respondent police would be able to produce the witnesses P.Ws.1 to 3 and P.W.7 on 07.01.2019, the other witnesses would be produced on the following day.

5.Taking into consideration the submissions made by the learned counsel for the petitioners in order to afford one more opportunity, this Court directs the Principal Sub Judge, Dindigul to permit the petitioner to cross-examine P.Ws.1 to 3 and P.W.7. It is made clear that the petitioners shall cross-examine the witnesses on the same day without taking any further adjournments.

6.With these observation, this Criminal Original Petition is disposed of. The petitioner shall pay a sum of Rs.1,000/- on or before 05.01.2019 to the Mediation and Conciliation Centre attached to the Trial Court. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CrI.Side)

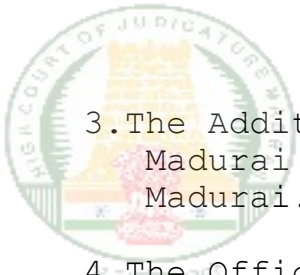
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Sub Assistant Registrar(CS-III)

To

1.The Principal Sub Judge,
Dindigul

2.Inspector of Police,
Pattiveeranpatti Police Station,
Dindigul District



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

4.The Officer Incharge,
Mediation and Conciliation Centre,
Principal SubOrdinate Court,
Dindigul.

+1cc to Mr.K.Manikandan Advocate in SR.No.100754

Cr1.O.P. (MD) .No.22293 of 2018
18.12.2018

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