

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.7219 of 2019 and  
Crl.M.P.No.3982 of 2019

1.A.Nisar Ali  
2.Allah Pitchai  
3.Johara Muthu  
4.A.Nasar Ali  
5.Nasiha Sulthana  
6.Balgeesh

... Petitioners

Vs.

State:  
Represented by the,  
Inspector of Police,  
All Women Police Station,  
Tiruppur North,  
Tiruppur District.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records and set aside the order passed in Crl.M.P.No.56 of 2019 in C.C.No.374 of 2016 dated 18.02.2019 by the learned Judicial Magistrate No.I, Tiruppur.

For Petitioners: Mr.E.K.Kumaresan

For Respondent : Mr.C.Raghavan

Government Advocate [Crl. Side]

O R D E R

This Criminal Original Petition has been filed challenging the order dated 18.02.2019, passed in Crl.M.P.No.56 of 2019 in C.C.No.374 of 2016 on the file of the learned Judicial Magistrate No.I, Tiruppur, thereby dismissing the petition filed by the petitioner under Section 311 of Cr.P.C to recall the witnesses PW1 to PW10.

2.It is seen that the trial Court dismissed the petition filed by the petitioners under Section 311 of Cr.P.C to recall PW1 to PW10 for the cross examination, for the reason that at the time of examining PW1 to PW10, there was a settlement talk between the petitioner and the PW1 to PW10, on date of Chief examination, therefore, the petitioners did not cross examine them. Thereafter, there was a communications of compromise and

also so many panchayat were held. Unfortunately, the petitioner could not obtained any compromise between the petitioner and the PW1 to PW10. Therefore, the cross examination of PW1 to PW10 is very much necessary to curl out the case of the defence.

3.Considering the facts and circumstances of this case, this Court is inclined to give one more opportunity to defend his case by proper and effective cross examination. Accordingly, the order dated 18.02.2019, passed in Crl.M.P.No.56 of 2019 in C.C.No.374 of 2016 on the file of the Judicial Magistrate Court No.I, Tiruppur is hereby set aside and the petitioner is permitted to cross examine PW1 to PW10 on payment of necessary charges. The trial Court is directed to fix a date for cross-examination and issue summons to PW1 to PW10 witnesses. It is made clear that if the petitioner fails to cross-examine the above said witnesses on the day fixed by the trial Court, the Judicial Magistrate No.I, Tiruppur is directed to proceed further with the trial, in accordance with law.

4.With the above directions, this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

vv2/ssr

To

1.The Judicial Magistrate No.I,  
Tiruppur.

2.The Inspector of Police,  
All Women Police Station,  
Tiruppur North,  
Tiruppur District.

3. The Public Prosecutor,  
High Court of Madras,  
Chennai.

+1 CC to Mr.E.K.Kumaresan, Advocate sr 24927.

CRL.O.P.No.7219 of 2019

VSNI I (CO)  
SP(13/05/2019)