

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 07.06.2019
CORAM
THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.14271 of 2019
and
Crl.MP.No.6931 of 2019

- 1.Ganeshwaran
- 2.Ponnusamy
- 3.Arunchallam
- 4.Makudapathi

.. Petitioners/Petitioners/Accused 1 to 4

Vs.

State Rep. by
The Inspector of Police,
Kangayam Police Station,
Tiruppur District.

.. Respondent/Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set-aside the order dated 27.04.2019 made in C.M.P.No.210 of 2019 in C.C.No.89 of 2013 on the file of the Chief Judicial Magistrate, Tiruppur and further direct the Chief Judicial Magistrate, Tiruppur to allow the petitioners to recall P.W.3 for Cross examination.

For Petitioners : Mr.S.Arjun

For Respondent : Mr.C.Raghavan

Government Advocate

O R D E R

This petition has been filed challenging the order passed by the Court below, dismissing the application filed under Section 311 of the Code of Criminal Procedure by the petitioner to recall and cross-examination of P.W.3.

2. The petitioner is facing trial before the Court below for an offense under Section 324 R/w 34 of IPC and 506(ii) IPC. The trial commenced on 07.01.2019 and the prosecution witnesses were examined. P.W.3 who was examined on 18.03.2019 was not cross examined by the petitioner. Therefore an application was filed under Section 311 of the Code of Criminal Procedure to recall P.W.3 for cross examination and the same was dismissed.

3.The learned counsel for the petitioner submitted that till now 10 witnesses have been examined and all of them were cross-examined by the petitioner except P.W.3. The learned counsel further submitted that one last opportunity may be given to the petitioner to cross examine P.W.3.

4.The learned Government Advocate submitted that the Court below has given cogent reasons for the dismissal of the recall petition and there are absolutely no grounds to interfere with the same.

5.This Court has carefully considered the submissions made on either side and also perused the materials placed on record.

6.The trial in this case commenced in January 2019 and 10 witnesses have been examined by the prosecution. All these witnesses were cross-examined by the petitioner except P.W.3. The Court below did not accept the contention put forward by the petitioner to the effect that he was not able to cross-examine P.W.3 due to unavoidable circumstances. The Court below also took into consideration the fact that the case is pending from the year 2013 onwards and therefore, the Court cannot permit the case to be kept pending any further.

7.Taking into consideration the facts and circumstances of the case and also of the fact that the petitioner has cross examined the other witnesses, this Court deems it fit to give one last opportunity to the petitioner to cross-examine P.W.3.

8.The order passed by the Court below in C.M.P.No.210 of 2019 dated 27.04.2019 is hereby set-aside. The Court below is directed to summon P.W.3 on 12.06.2019. On the same day the learned counsel for the petitioner shall cross-examine P.W.3 and complete the cross-examination on the same day and the petitioner is directed to pay a cost of Rs. 5,000/- (Rupees Five thousand only) to P.W.3 on the date of her appearance before the Court below. The petitioner is further directed to cross-examine on the same day, all the other witnesses examined in Chief by the prosecution.

9. In the result, this Criminal Original Petition is allowed and the Court below is directed to complete the proceedings within a period of two months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

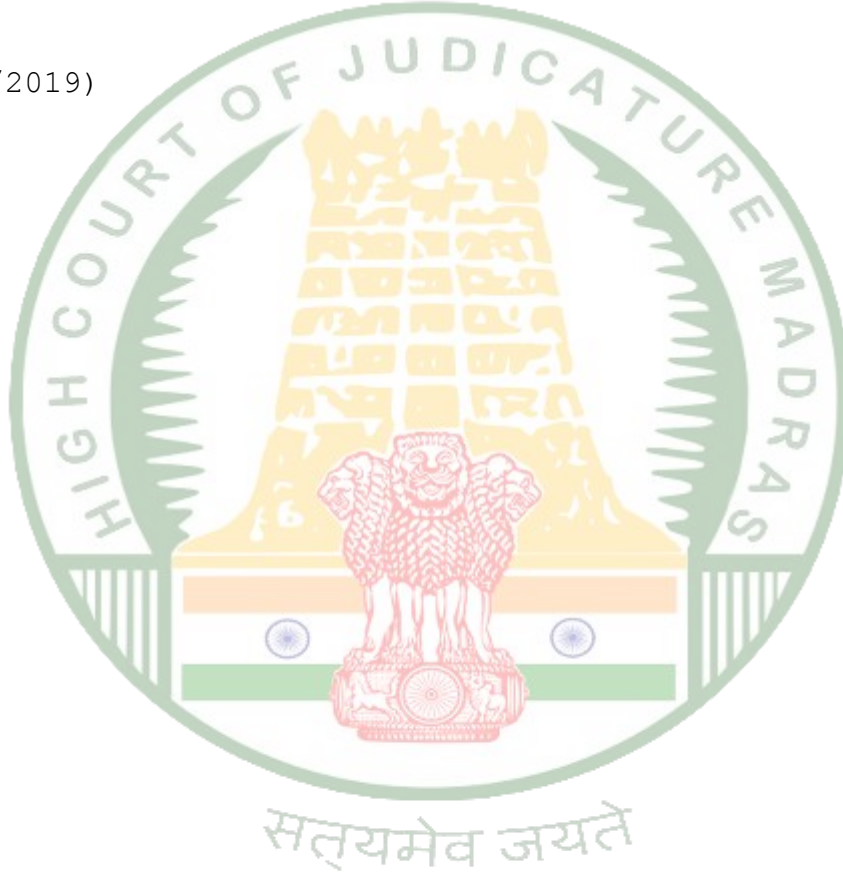
1.The Inspector of Police,
Kangayam Police Station,
Tiruppur District.

2. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.S.Arjun, Advocate, S.R.No.45954

Crl.O.P.No.14271 of 2019

SJ(CO)
SSM(10/06/2019)



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