

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

CrI.O.P.No.25086 of 2019

and

CrI.M.P.No.13384 of 2019

Iyappan @ Saravanan

...Petitioner/Accused

Vs.

State Rep. by
The Inspector of Police,
Aliyar Police Station,
Coimbatore.

...Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., against the order dated 07.09.2019 made in C.M.P.No.288 of 2019 in S.C.No.12 of 2019 on the file of the learned I Additional District Judge, Coimbatore.

For Petitioner : Mr.S.Yogalakshmi

For Respondent : Mr.C.Iyyapparaj
Additional Public Prosecutor

O R D E R

This petition is filed against the order dated 07.09.2019 made in C.M.P.No.288 of 2019 in S.C.No.12 of 2019 on the file of the learned I Additional District Judge, Coimbatore.

2.I do not find any infirmity in the order of the trial court rejecting the petitioner's application filed under Section 311 of Cr.P.C. As a matter of fact, the reasoning adduced by the trial court can be justified. Nevertheless, the learned counsel for the petitioner would make an earnest and sympathetic request stating that the petitioner having certain vital evidence but their counsel has inadvertently omitted to put forth such vital factors during the course of cross examination of PW.1 and PW.8. The learned counsel would also submit that if the petitioner is permitted to cross examine PW.1 and PW.8, they would comply with the same and complete the cross examination of the said witnesses on one single day. This Court is of the view that such an opportunity could be granted to the petitioner on a lineant

consideration. It is made clear that the petitioner shall cross examine PW.1 and PW.8 and shall complete it on the same day.

3. In the light of the above observations, the petitioner is permitted to make an appropriate application before the learned I Additional District Court, Coimbatore, seeking to recall and for cross examination of PW.1 and PW.8. On receipt of such an application, the learned Judge shall permit the petitioner to cross examine the witnesses, namely, PW.1 and PW.8 on the same day, within one week from the date of such application. The costs for recalling the witnesses shall be borne by the petitioner and such costs shall be determined by the trial Court. In such view of the matter the order dated 07.09.2019 made in C.M.P.No.288 of 2019 in S.C.No.12 of 2019 by the learned I Additional District Judge, Coimbatore is hereby set aside.

4. Accordingly, the Criminal Original Petition is disposed of. No costs. Consequently connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

vkr

To

1. The I Additional District Judge, Coimbatore.

2. The Inspector of Police,
Aliyar Police Station,
Coimbatore.

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

+1 CC to Mr.R. Mansoor Ilahi, Advocate sr 82204.

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Crl.O.P.No.25086 of 2019
and
Crl.M.P.No.13384 of 2019

SR(CO)
SP(18/10/2019)