

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.30012 of 2019

and

Crl.M.P.No.16204 of 2019

1.J.P.Kandasamy
2.J.P.Natarajan
3.K.Muthukumar
4.Sampath

...Petitioners/Accused

Vs.

State by,
Sub Inspector of Police,
Bhavani Police Station,
(Crime No.575 of 2013)

...Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the order dated 31.10.2019 in Crl.M.P.No.3441 of 2019 in C.C.No.105 of 2014 on the file of the Judicial Magistrate No.1, Bhavani and allow this Criminal Original Petition according permission to the petitioners to recall the PW1.

For Petitioners : Mr.T.Balaji

For Respondent : Mr.C.Iyyapparaj
Additional Public Prosecutor

O R D E R

This Criminal Original Petition is filed to set aside the order dated 31.10.2019 passed in Crl.M.P.No.3441 of 2019 in C.C.No.105 of 2014 on the file of the learned Judicial Magistrate No.1, Bhavani and thereby allow the petitioner to cross examine PW1.

2. This Court does not strictly find any illegality in the order of the learned Judicial Magistrate No.1, Bhavani, rejecting the petitioner's application under Section 311 Cr.P.C. The learned Magistrate, while rejecting the application, had observed that PW.1 was already examined on 09.04.2019 and that the petitioner herein has filed this application with an intention to drag on the proceedings.

3. Nevertheless, by taking into account the submission made by the learned counsel for the petitioner that certain vital aspects has to be put forth in the cross examination and also the fact that such a cross examination would assist the Court in coming to a just and fair conclusion, this Court is inclined to take a lenient view by giving one more opportunity to the petitioner to cross examine PW1.

4. In the light of the above observations, the order dated 31.10.2019 in CrI.M.P.No.3441 of 2019 in C.C.No.105 of 2014 pending on the file of the learned Judicial Magistrate No.1, Bhavani, is set aside. Consequently, the learned Judicial Magistrate No.1, Bhavani, shall permit the petitioner to cross examine PW1 and ensure that such examination is completed on the same day. It is made clear that the petitioner shall not be given any further opportunity or extension of time for such a cross examination.

5. Accordingly, the Criminal Original Petition stands allowed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Judicial Magistrate No.1,
Bhavani.

2.do Thro The Chief Judicial Magistrate,
Erode.

3.The Sub Inspector of Police,
Bhavani Police Station.

4.The Public Prosecutor,
High Court of Madras.

+1cc to Mr.A.Thiyagarajan & T.Balaji, Advocate sr.92874

CrI.O.P.No.30012 of 2019

bp(co)
nr 11/11/2019