

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2019

CORAM

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

Crl.O.P.No.33046 of 2019

and

Crl.M.P.No.18220 of 2019

1.Rukku
2.Lakshmi
3.Sanjeevi
4.Sudhakar

.... Petitioners

-Vs-

The State Rep.by the
Sub Inspector of Police
Ambalur Police Station
Vellore District.
(Crime No.163/2010)

.... Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to set aside the order passed by the learned Judicial Magistrate, Vaniyambodi Vellore District in Crl.M.P.No.4595/2019 in C.C.No.45/2010 dated 30.10.2019.

For Petitioners : Mr.E.Kannadasan
For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to set aside the order passed by the learned Judicial Magistrate, Vaniyambodi Vellore District in Crl.M.P.No.4595/2019 in C.C.No.45/2010 dated 30.10.2019.

2. The learned counsel for the petitioners has submitted that the petitioners are facing trial for the alleged offences under Sections 294(b), 323 and 506(i) of IPC. He further submitted that on 21.10.2019, PWs 8 and 9 were examined in chief and on that date, the petitioners had engaged a new counsel and hence a request was made to grant some more time, for cross examination, but the trial Court had refused to adjourn the matter and recorded as "no cross." He further submitted that on

30.10.2019, the petitioners had filed a petition under Section 311 of Cr.P.C. in Crl.M.P.No.4595 of 2019 to recall PWs 8 and 9 but the trial Court without giving opportunity to the petitioners to cross examine the said witnesses had dismissed the said petition. He further submitted that since PWs 8 and 9 are Investigating Officers, they are material witnesses, an opportunity may be given to the petitioners to cross examine the said witnesses, or otherwise the petitioners will be put to irreparable loss.

3. The learned Additional Public Prosecutor has submitted that the case is pertaining to the year 2010 and hence, the learned Judicial Magistrate had refused to grant adjournment for cross examination and also dismissed the said petition which was filed to recall PWs 8 and 9 and hence, he requests to dismiss the petition and in the said order, this court need not interfere and hence, he prayed to dismiss the petition.

4. Considering the fact that PWs 8 and 9 were examined only after nine years, i.e., on 21.10.2019 and within 9 days 30.10.2019 the petitioners have filed a petition to recall the aforesaid witnesses and also the fact that the said witnesses are Investigating Officers, this Court is of the view that an opportunity should be given to the petitioners to cross examine the said witnesses.

5. In the result, this petition is allowed. Consequently, connected Miscellaneous Petition is closed. The order passed by the learned Judicial Magistrate, Vaniyambodi, in Crl.M.P.No.4595 of 2019 dated 30.10.2019 is set aside.

6. The learned Judicial Magistrate, Vaniyambodi is directed to recall PWs 8 and 9 and give an opportunity to the petitioners to cross examine the said witnesses. The petitioners are directed to cross examine the said witnesses on their appearance, without seeking any adjournment.

Sd/-

Assistant Registrar (CS-)

// True Copy//

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Sub Assistant Registrar

dna

To

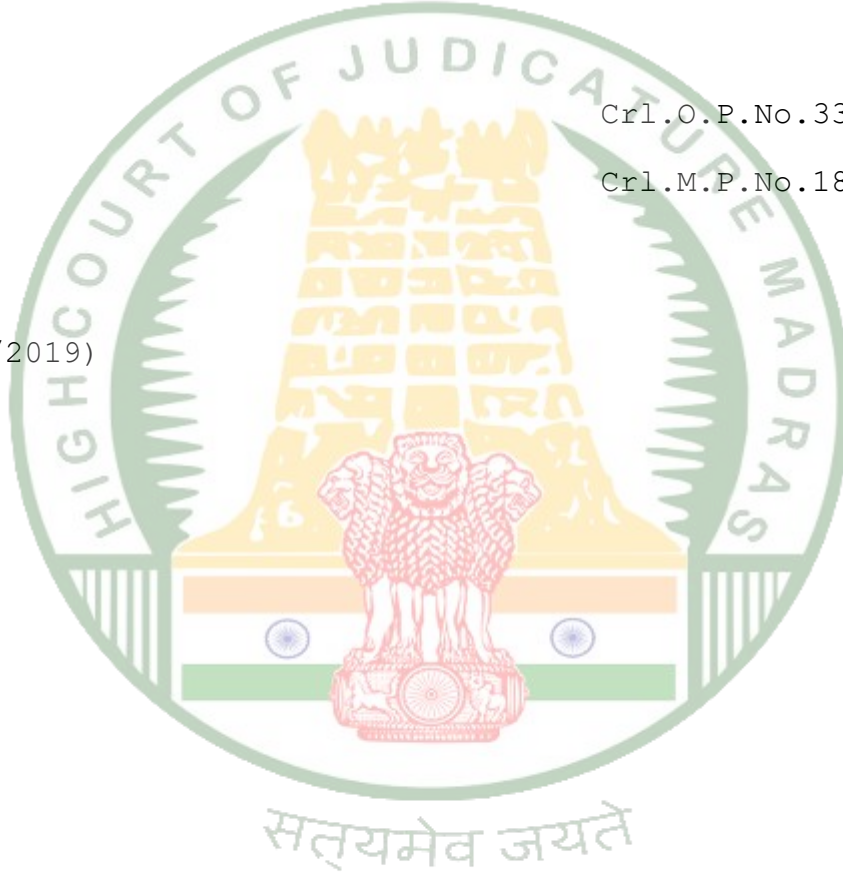
1.The Sub Inspector of Police
Ambalur Police Station
Vellore District.
(Crime No.164/2010)

2.The Public Prosecutor,
High Court, Madras.

+1CC to Mr.E.Kannadasan, Advocate, SR.No.102152.

CrI.O.P.No.33046 of 2019
and
CrI.M.P.No.18220 of 2019

AD(CO)
CSR(09/12/2019)



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