



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.03.2019

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

Cr1.O.P.(MD)No.3618 of 2019
and
Cr1.M.P.(MD)No.2090 of 2019

1.Madasamy
2.Selvaraj

... Petitioners/Petitioners/
Accused Nos.1 & 2

/Vs./

State represented by
The Inspector of Police,
Muthaiahpuram Police Station,
Tuticorin District.
[Crime No.124 of 2013]

... Respondent/Respondent
Complainant

Prayer: Petition - filed under Section 482 of the Criminal Procedure Code, to call for the records and set aside the order passed by the Cr.M.P.No.96 of 2019 on the file of the Judicial Magistrate No.II, Tuticorin in C.C.No.67 of 2014 on the file of the Judicial Magistrate No.II, Tuticorin and allow this criminal original petition.

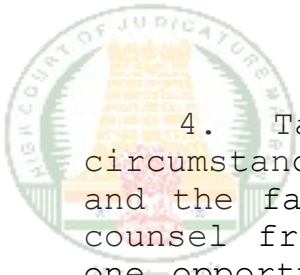
For Petitioners	: Mr.V.Malaiyendran
For Respondent	: Mr.V.Neelkandan
	Additional Public Prosecutor

ORDER

This criminal original petition is filed by the petitioners set aside the order passed by the Cr.M.P.No.96 of 2019 in C.C.No.67 of 2014 on the file of the Judicial Magistrate No.II, Tuticorin and to recall P.W.1 to P.W.5.

2. The learned counsel appearing for the petitioners submitted that on 07.01.2019, the petitioners have engaged a new counsel and on the same day, he has filed a petition under Section 311 Cr.P.C., for recalling them. He further submitted that it is due to the mistake of the earlier counsel the witnesses have not been cross-examined. The petitioners is keen to co-operate with the trial and may be granted atleast one opportunity.

3. Heard the learned Additional Public Prosecutor, who made a statement that P.W.9 is scheduled to be examined on 12.03.2019.



4. Taking into consideration the over all facts and circumstances of the case, substantial justice involved in the case, and the fact that the petitioners came to be represented by a new counsel from 07.01.2019, this Court deems it appropriate to grant one opportunity to the petitioners to cross-examine P.W.1 to P.W.5 on the same day subject to the payment of cost of Rs.1,500/- [Rupees One Thousand Five Hundred only] to the District Legal Services Authority. The said amount is directed to be paid on or before 12.03.2019.

5. In view of the above, the order impugned in this petition is set aside and accordingly, this criminal original petition is allowed. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/ True Copy /

Sub Assistant Registrar

To

1.The Judicial Magistrate No.II,
Tuticorin.

2.The The Inspector of Police,
Muthaiahpuram Police Station,
Tuticorin District.

3. The District Legal Services Authority,
Tuticorin.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.V.MALAIYENDRAN, Advocate
(SR-52702[F] dated 08/03/2019)

Order made in
Cr1.O.P.(MD)No.3618 of 2019
08.03.2019

SM

ES/08.03.2019/2P/6C