



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2019

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.O.P. (MD) No.4045 of 2019

and Crl.M.P. (MD) No.2421 of 2019

WEB COPY

Saviera @ Saviera Saberiyan

.. Petitioner/Sole Accused

Vs.

The Inspector of Police,
Vachakarapatti Police Station,
Virudhunagar District.
(Crime No.96 of 2009)

.. Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records and set aside the order dated 06.02.2019 made in Crl.M.P.No.186 of 2019 in C.C.No.128 of 2010 on the file of the learned Judicial Magistrate No.I, Virudhunagar, Virudhunagar District.

For Petitioner : Mr.Sathyachidambaram

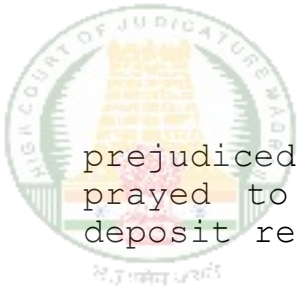
For Respondent : Mr.V.Neelakandan
Additional Public Prosecutor

ORDER

This petition has been filed to set aside the order dated 06.02.2019 made in Crl.M.P.No.186 of 2019 in C.C.No.128 of 2010 on the file of the learned Judicial Magistrate No.I, Virudhunagar, Virudhunagar District.

2.The facts of the case is that the petitioner was implicated in the Crime Number 69 of 2009 on the file of respondent police for the offences punishable under sections 279, 338, 304 (A) of IPC. After completion of investigation charge sheet has been filed before the learned Judicial Magistrate No.I, Virudhunagar and the same was taken on file as C.C.No.128 of 2010. The prosecution witnesses were examined in chief as early as in the year 2010. However, after five years the petitioner filed a petition under Section 311 Cr.P.C for cross examination of P.W.1 to P.W.3. However, the said petition was dismissed. Hence, this criminal original petition has been filed by the petitioner.

3.The learned counsel for the petitioner would submit that since the counsel arranged by the petitioner engaged in District Court, Virudhunagar District at Srivilliputhur, he was unable to examine the witnesses. Hence, he filed the petition under Section 311 Cr.P.C to recall the P.W.1 to P.W.3 and cross examine them. If the petitioner was not given an opportunity, he will be



prejudiced and the case will be decided against him. Hence, prayed to allow this petition and the petitioner is ready to deposit reasonable amount as directed by this Court

3. The learned Additional Public Prosecutor appearing for the state has no objection to entertain this petition on payment of cost.

4. Hence, considering the principles of natural justice, this Court inclined to give an opportunity to the petitioner to cross examine the P.W.1 to P.W.3 on condition of payment of Rs.5,000/- to the Dog Squad, Virudhunagar District.

4. Accordingly, the order passed by the learned Judicial Magistrate No.I, Virudhunagar, in CrI.M.P.No.186 of 2019 in C.C.No.128 of 2010 on his file dated 06.02.2019, is set aside and the learned Judicial Magistrate is directed to post the matter on 29.03.2019 for cross examination of P.W.1 to P.W.3. The petitioner shall cross examine the witnesses on the same day itself. The petitioner shall pay a sum of Rs.5,000/- by cash to the Superintendent of Police, Virudhunagar District for the welfare of Dog Squad, Virudhunagar District.

5. With the above direction, this criminal original petition is allowed. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Judicial Magistrate No.I, Virudhunagar.

2. The Superintendent of Police
Virudhunagar, Virudhunagar District

+1 CC to M/s.S.SATHYA CHIDAMBARAM, Advocate (SR-55033[F] dated 19/03/2019)

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CrI.O.P. (MD) No.4045 of 2019
18.03.2019

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