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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.04.2019**

CORAM:

THE HONOURABLE MR.JUSTICE. N.SESHASAYEE

Crl.O.P.[MD]No.4536 of 2019

and

Crl.M.P.[MD]No.2849 of 2019

- 1 B.KOTTIAPPAN S/O.BACKIYASALAI,
3/129, INDRA COLONY,
SANKARANKOVIL,
PERUNKOTTUR,
THIRUNELVELI DISTRICT.
- 2 MURUGESWARI W/O.B.KOTTIAPPAN,
3/129, INDRA COLONY, SANKARANKOVIL,
PERUNKOTTUR, THIRUNELVELI DISTRICT.
- 3 IMMANUEL S/O.SHANMUGAM,
3/129, INDRA COLONY, SANKARANKOVIL,
PERUNKOTTUR, THIRUNELVELI DISTRICT.
- 4 RAJKUMAR S/O.KADARKARAI,
3/129, INDRA COLONY, SANKARANKOVIL,
PERUNKOTTUR, THIRUNELVELI DISTRICT.
- 5 KARUPPAIAH, S/O.ARUNACHALAM,
3/129, INDRA COLONY, SANKARANKOVIL,
PERUNKOTTUR, THIRUNELVELI DISTRICT.
- 6 DURAISAMY S/O.CHELLAIAH,
3/129, INDRA COLONY, SANKARANKOVIL,
PERUNKOTTUR, THIRUNELVELI DISTRICT.

... Petitioner/Petitioner/Accused No 1 to 6

/Vs./

State represented by
The Inspector of Police,
Thiruvengadam Police Station,
Tirunelveli District.
(Crime No.200 of 2013)

...Respondent/Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to set aside the order passed in Crl.M.P.(MD)No.789 of 2019 in S.C.No.453 of 2016 by order dated 28.02.2019 on the file of the IV Additional District and Sessions Judge, Thirunelveli District by allowing this criminal original petition and to permit the



petitioner to recall P.W.12 for the purpose of re-examine.

For Petitioner
For Respondent

: Mr.P.Subbaraj
: Mr.V.Neelakandan
Additional Public Prosecutor

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ORDER

This petition is filed to permit the petitioner to recall P.W.12, the investigating officer in S.C.No.453 of 2016 on the file of the IV Additional District and Sessions Judge, Thirunelveli District.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor.

3. The learned counsel appearing for the petitioner submitted that the petitioner faces trial for the charges *inter alia* under Section 307 IPC and that his substantial right would be lost.

4. The learned Additional Public Prosecutor submitted that the case is posted on 05.04.2019.

5. Even though this Court is not able to appreciate the reasoning given for recalling the witness, yet since the investigating officer is a critical witness and since the impugned order does not indicate any earlier conduct of the petitioner to drag on the proceedings or to defeat the trial in any manner whatsoever, this Court considers it appropriate to grant one more opportunity to the petitioner to cross-examine P.W.12.

6. In view of the above, the order passed in CrI.M.P.(MD) No.789 of 2019 in S.C.No.453 of 2016 by order dated 28.02.2019 on the file of the IV Additional District and Sessions Judge, Thirunelveli District is set aside. Accordingly, this criminal original petition is allowed and the petitioner is directed to appear before the IV Additional District and Sessions Judge, Thirunelveli District, on 05.04.2019 to cross-examine P.W.12. Consequently, connected Miscellaneous Petition is closed.

Sd

ASSISTANT REGISTRAR (CO)

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SUB ASSISTANT REGISTRAR (CS II)

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To

1.The IV Additional District and Sessions Judge, Thirunelveli Dist.

2.The Inspector of Police,
Thiruvengadam Police Station, Tirunelveli District.

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

1CC TO MR. P. SUBBA RAJ, ADVOCATE SR 58697

DS
4/4/2019
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