



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.04.2019

CORAM

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THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

Crl.O.P.No.5341 of 2019

and

Crl.M.P(MD)No.3378 of 2019

Mr.Murugan

.. Petitioner

Vs

The Sub Inspector of Police,
Sempatty Police Station,
Sempatty,
Dindigul District.
(Crime No.215 of 2007)

.. Respondent

Prayer:Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records pertaining to the order passed by the learned Judicial Magistrate, No.I, Dindigul, in Crl.M.P.No.1773 of 2018 in C.C.No.185 of 2012 dated 09.05.2018 and confirmed by the learned Principal Sessions Judge, Dindigul in Crl.R.C.No.7 of 2018 dated 08.11.2018 and set aside the same by allowing the above criminal original petition.

For Petitioner : Mr.S.Sarvaganprabhu
For Respondent : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl.Side)

O R D E R

This petition has been filed challenging the order passed by the learned Judicial Magistrate, Dindigul, No.I, in Crl.M.P.No.1773 of 2018 in C.C.No.185 of 2012 dated 09.05.2018 and confirmed by the learned Principal Sessions Judge, Dindigul in Crl.R.C.No.7 of 2018 dated 08.11.2018.

2.The petitioner is sole accused in C.C.No.185 of 2012 and facing trial for the offence under Sections 341 and 506 (i) IPC. The case was instituted in the year 2007. The prosecution has examined seven witnesses and all those witnesses were completed. The prosecution evidences were closed in the year 2018. Particularly, P.W.1 was examined on 12.06.2008 and P.W.7 was examined on 22.09.2010. However, till date no cross examination was conducted.

3. For the purpose of cross examination, earlier the petitioner filed a petition under Section 311 in Crl.M.P.No.1773 of 2018 to recall and cross examine P.W.1 & P.W.7 and the same was dismissed by an order dated 09.05.2018 by the Court below.

4. The petitioner did not properly avail the said opportunity and he did not cross examine the witnesses. The only reason given by

the petitioner for not cross-examining the witnesses was that his Advocate was ill.

5. The petitioner has again filed the petition in CrI.R.C.No.7 of 2018 to recall and cross examine P.W.1 & P.W.7 and the same was also dismissed by an order dated 08.11.2018, by the Court below by giving cogent reasons and also taking into consideration the previous conduct of the petitioner. This Court does not find any illegality or infirmity in the order passed by the Court below. However, in order to afford one more opportunity to the petitioner, this Court deems it fit to permit the petitioner to cross examine them. The order of the Court below in C.M.P.No.1773 of 2018 is hereby set aside and the petitioner is permitted to recall and cross examine P.W.1 & P.W.7.

6. The trial Court has fixed hearing date on 15.04.2019. On the same day, the petitioner should be cross examine the witnesses, without any further adjournment.

7. The petitioner shall pay the cost of Rs.1,000/- (Rupees One Thousand only) to each of the witnesses, when they come for giving evidence.

8. The petitioner is directed to pay the cost of Rs.5,000/- (Rupees Five Thousand only) to the District Legal Aid Service Authority on or before 12.04.2019.

9. This Criminal Original Petition stands allowed with the above direction. Consequently, CrI.M.P.No.3378 of 2019 is closed.

Sd/-

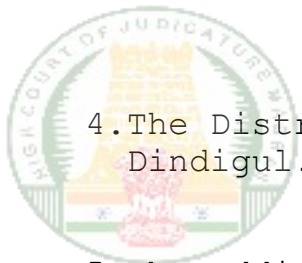
Assistant Registrar (AD I)

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Sub Assistant Registrar (CS IV)

DSS
To

1. The Judicial Magistrate,
No.I, Dindigul.
2. The Principal Sessions Judge,
Dindigul.
3. The Sub Inspector of Police,
Sempatty Police Station,
Sempatty,
Dindigul District.



4.The District Legal Aid Service,
Dindigul.

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

+1 CC to M/s.S.SARVAGAN PRABHU, Advocate (SR-60607[F] dated
11/04/2019)

Cr1.O.P.No.5341 of 2019
and
Cr1.M.P(MD)No.3378 of 2019

11.04.2019

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