



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.06.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE **V.BHARATHIDASAN**

Crl.O.P.(MD) No.8053 of 2019
and
Crl.M.P.(MD)No.4991 of 2019

S.M.Anthony Muthu

.. Petitioner

Vs.

State rep.by
The Sub Inspector of Police,
Colachel Police Station,
Kanyakumari District,
(Crime No.243 of 2009)

.. Respondents

Prayer: Petition is filed under Section 482 of the Criminal Procedure Code praying to set aside the order dated 09.05.2019 in C.M.P.No.1460/2019 in C.C.No.225/2012 on the file of the District Munsif Cum Judicial Magistrate Eraniel Kanyakumari District and direct the court below to recall PW-1 to 3 for cross examination on the side of the petitioner/Accused.

For Petitioner	:	Mr.C.T.Perumal
For Respondent	:	Mr.K.Suyambulinga Bharathi Government Advocate (Crl.Side)

ORDER

Challenging the order dated 09.05.2019 passed in C.M.P.No.1460 of 2019 in C.C.No.225 of 2012 by the Principal District Munsif - cum - Judicial Magistrate, Eraniel, the present Criminal Original Petition has been filed.

2.The petitioner is an accused in C.C.No.225 of 2012 for the offence under Section 420 IPC. The grievance of the petitioner is that PWs.1 to 3 were examined by the prosecution on 20.02.2019. On that date, the petitioner's counsel could not cross examine the said prosecution witnesses. Hence, the Judicial Magistrate closed the prosecution witnesses and proceeded with the trial. Immediately, the petitioner filed an application under Section 311 Cr.P.C., within a period of five days to recall the aforesaid witnesses for the purpose of cross examination. But the said application has been dismissed by the Magistrate and in order to set aside the same, this petition has been filed.



3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent.

4. Considering the fact that the petitioner, being an accused and in order to give him an opportunity, in the interest of justice, the impugned order passed in C.M.P.No.1460 of 2019 in C.C.No. by the Principal District Munsif - cum - Judicial Magistrate, Eraniel is set aside and the Judicial Magistrate, Eraniel is directed to recall the witnesses viz., PWs.1 to 3 on 17.06.2019 and on that date, the petitioner is directed to cross examine the said witnesses. If the petitioner fails to cross examine the aforesaid witnesses on 17.06.2019, it is open to the Principal District Munsif - cum - Judicial Magistrate, Eraniel to proceed with the trial in C.C.No.225 of 2012.

5. This Criminal Original Petition is disposed of accordingly. Consequently, Crl.M.P.(MD)No.4991 of 2019 is closed.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

To

1. The Principal District Munsif - cum -
Judicial Magistrate, Eraniel.
2. The Sub Inspector of Police,
Colachel Police Station,
Kanyakumari District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1. C.C. to M/S.C.T.Perumal, Advocate SR.No. 68704

Crl.O.P.(MD) No.8053 of 2019
13.06.2019

JM/14.06.2019/2P-5C