



BEFORE THE MADURAI BENGH OF MADRAS HIGH COURT

DATED: 16.09.2019

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P (MD) No. 8133 of 2019

and Cr1. M.P.(MD) No. 5037 of 2019

WEB COPY

T. Selvaraj

... Petitioner/Accused

Vs

The State rep. by,
The Inspector of Police,
Dindigul Taluk Police Station,
Dindigul.

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to set aside the order dated 11.01.2019 made in Cr1.R.P.No.6 of 2018 on the file of the Learned Principal Sessions Judge, Dindigul confirming the order made in Cr.M.P.No.602 of 2018 in C.C.No.53 of 2014 on the file of the Learned Judicial Magistrate No.I, Dindigul dated 26.03.2018.

For Petitioner : Mr.J. Lawrance

For Respondent : Mr.K.Suyambulinga bharathi,
G.A. (Cr1. Side)

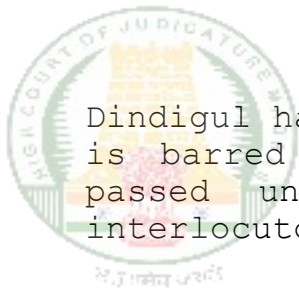
O R D E R

This petition has been filed to set aside the order dated 11.01.2019 made in Cr1.R.P.No.6 of 2018 on the file of the Learned Principal Sessions Judge, Dindigul confirming the order made in Cr.M.P.No.602 of 2018 in C.C.No.53 of 2014 on the file of the Learned Judicial Magistrate No.I, Dindigul dated 26.03.2018 thereby dismissing the petition filed by the petitioner under Section 311 of Cr.P.C. to recall the witnesses P.W.1 to P.W.7.

2.The learned counsel appearing for the petitioner would submit that P.W.1 & P.W.2 were examined on 20.09.2016 and P.W.3 to P.W.9 were examined on 12.09.2017 and thereafter, the petitioner has filed a petition to recall the witnesses on 09.02.2018. He further would submit that due to petitioner's illness he could not able to filed a petition to recall the witnesses immediately. The petitioner has charged for the offences under Sections 279, 304(A) of I.P.C.

3. Heard both sides and perused the materials available on records.

4. It is also seen that the learned Principal Sessions Judge,
<https://hcservices.ecourts.gov.in/hcservices/>



Dindigul has dismissed the petition for the reason that the revision is barred under Section 397(2) of Cr.P.C. as against the order passed under Section 311 of Cr.P.C. since it is only an interlocutory order.

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5. Considering the facts and circumstances of the case, this Court set aside both the order dated 11.01.2019 made in CrI.R.P.No.6 of 2018 on the file of the Learned Principal Sessions Judge, Dindigul confirming the order made in Cr.M.P.No.602 of 2018 in C.C.No.53 of 2014 on the file of the Learned Judicial Magistrate No.I, Dindigul dated 26.03.2018. The trial Court is directed to fix the date of cross examination on payment of necessary charges. If the petitioner fails to cross examine the witnesses on the date fixed by the trial Court, the trial Court is directed to proceed with the trial in accordance with law.

6. With the above directions, the Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD I)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Principal Sessions Judge, Dindigul.

2.The Judicial Magistrate No.I, Dindigul.

3. The Inspector of Police,
Dindigul Taluk Police Station,
Dindigul.

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

+1 CC to M/s.J.LAWRANCE, Advocate (SR-87188[F] dated 17/09/2019)

CRL.O.P (MD) No. 8133 of 2019

16.09.2019

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