



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.10.2019

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P(MD).No. 4865 of 2018

and Crl.M.P.(MD) No.2386 of 2018

WEB COPY

Selvaperumal

...Petitioner/ Petitioner/Accused

Vs.

The Sub Inspector of Police,
Nesamony Nagar Police Station,
Kannyakumari District

... Respondent/Respondent/Complainant

PRAYER: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to set aside the order passed by the learned Judicial Magistrate No.II, Nagercoil in C.M.P. No.5638 of 2017 in C.C. No.167 of 2015, dated 18.01.2018.

For Petitioner : Mr.K.P. Narayanakumar

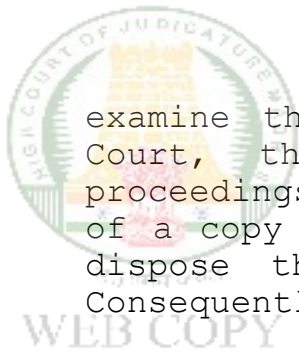
For Respondent : Mr.K.Suyambulinga Bharathi
Government Advocate(Crl.Side)

O R D E R

This Criminal Original Petition has been filed to set aside the order passed by the learned Judicial Magistrate No.II, Nagercoil in C.M.P. No.5638 of 2017 in C.C. No.167 of 2015, dated 18.01.2018.

2. It is seen that the petitioner has filed a petition under Section 311 of Cr.P.C., to recall the witnesses P.W.1 & 2 in C.M.P. No.5638 of 2017 in C.C. No.167 of 2015 before the learned Judicial Magistrate No.II, Nagercoil and the same was dismissed by order, dated 18.01.2018. The petitioner was charged for the offences under Sections 294(b), 323, 324, 506(ii) of IPC. The prosecution has examined P.W.1 & 2 in chief on 24.05.2017. In spite of opportunity given to the petitioner, he did not cross examine the witnesses P.W.1 & 2. It is also seen that he has not cross examine the witnesses P.W.1 & 2.

3. Considering the facts and circumstances, the petitioner may be given one more opportunity to cross examine the witnesses P.W.1 & 2. Accordingly, the Criminal Original Petition is allowed and the order dated, 18.01.2018 in C.M.P. No.5638 of 2017 in C.C. No.167 of 2015, passed by the learned Judicial Magistrate No.II, Nagercoil is set aside. The petitioner is directed to cross examine the witnesses P.W.1 & 2 on the date fixed by the trial Court on payment of necessary charges. If the petitioner is failed to cross



examine the witnesses P.W.1 & 2 on the date fixed by the trial Court, the trial Court is directed to complete the trial proceedings, within a period of One month, from the date of receipt of a copy of the order and further the trial Court is directed to dispose the case, within a period of Two months, thereafter. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Judicial Magistrate No.II,
Nagercoil.

2.The Sub Inspector of Police,
Nesamony Nagar Police Station,
Kanyakumari Dist.

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

+1 CC to M/s.K.P.NARAYANA KUMAR, Advocate
(SR-92388[F] dated 17/10/2019)

ksa

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