



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 17.09.2019
CORAM

THE HONOURABLE MR. JUSTICE **G.K. ILANTHIRAIYAN**

WEB COPY

Crl.O.P(MD) No.12865 of 2019
and
Crl.M.P(MD) No.7930 of 2019

Anandhan

...Petitioner/Accused

-Vs-

The Inspector of Police,
Poovanthi Police Station
Sivagangai District

... Respondent/Complainant

Prayer: Criminal Original petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed in Criminal Miscellaneous Petition in Crl.M.P.No.354 of 2018 on the file of the Learned Judicial Magistrate No.II, Sivagangai dt.19.02.2019 in C.C.No.39 of 2011 on the file of the Learned Judicial Magistrate No.II, Sivagangai

For Petitioner : Mr.V.Kannan

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

ORDER

This Criminal Original Petition has been filed to set aside the order passed in Criminal Miscellaneous Petition in Crl.M.P.No.354 of 2018 on the file of the learned Judicial Magistrate No.II, Sivagangai dt.19.02.2019 in C.C.No.39 of 2011 on the file of the Learned Judicial Magistrate No.II, Sivagangai.

2. The learned counsel for the petitioner would submit that he has filed petition to recall the prosecution witness no.4 and while the learned Magistrate allowing the petition wrongly mentioned as PW.1 instead of PW.4. Hence he has filed the present petition to recall PW.4.

3. The learned Government Advocate(Crl.Side) did not dispute the fact submitted by the learned counsel for the petitioner.

4. Heard Mr.K.Kannan, the learned counsel for the petitioner and Mr.K.Suyambulinga Bharathi, learned Government Advocate (Crl.Side) for the respondent.



5. Considering the facts and circumstances of the case, this Court feels that the petitioner may be given one more opportunity to put fourth his defence. Accordingly, the order dated 19.02.2019, passed by the learned Judicial Magistrate No.II, Sivagangai in Cr.M.P.No.354 of 2018 in C.C.No.39 of 2011, is hereby set aside and the trial court is directed to fix the date to cross examine P.W.4 by payment of necessary charges. If the petitioner failed to cross-examine P.W.4 on the date fixed by the trial Court, the trial Court is directed to proceed with trial in accordance with law.

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

Sd/-

Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.II, Sivagangai
2. The Inspector of Police,
Poovanthi Police Station
Sivagangai District
3. The Additional Public Prosecutor
Madurai Bench of Madras High Court.

+1 CC to M/s.P.P ALWIN BALAN, Advocate (SR-86806[F] dated 16/09/2019)

Crl.O.P(MD) No.12865 of 2019
and

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JM/23.09.2019/2P/5C