



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2019

CORAM

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

Crl.O.P.(MD) No.12187 of 2019 and

Crl.M.P(MD)No. 7654 of 2019

Shanmugam @ Shanmugaraja

... Petitioner/Petitioner
/ Sole Accused

-Vs-

State rep. by
The Sub Inspector of Police,
Dindigul West Police Station,
Dindigul District.
(Crime No. 692 of 2015)

... Respondent / Respondent /
Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records and set aside the order passed in Cr.M.P.No. 3286 of 2019 in C.C.No. 67 of 2016 on the file of the Judicial Magistrate No.I, Dindigul on 13.08.2019.

For Petitioner : Mr.V. Muthu Samundeeswaran

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

O R D E R

This Criminal Original petition has been filed challenging the order passed in Cr.M.P.No. 3286 of 2019 in C.C.No. 67 of 2016 on the file of the Judicial Magistrate No.I, Dindigul, dated 13.08.2019, thereby, dismissing the petition filed under Section 311 Cr.P.C., to recall PW.1 to PW.4 and PW.6

2. Heard Mr. V. Muthusamundeeswaran, learned counsel appearing for the petitioner and Mr. K. Suyambulinga Bharathi, learned Government Advocate (Crl.Side) appearing for the respondents.

3. The petitioner is the sole accused. The respondent Police filed final report and the same has been taken cognizance in C.C.No. 67 of 2016 and the prosecution examined PW.1 to PW.4 and PW.6 as early as on 29.05.2019. The petitioner could not able to appear before the Court below on that day and as such PW.1 to PW.4 and PW.6 were not cross examined by the petitioner.



4. Considering the above facts and circumstances of the case, this Court is of the view that the petitioner, being a sole accused, may be given an opportunity to cross examine PW.1, PW.4 and PW.6 alone. As far as examination of PW.2 and PW.3 are concerned this petition is dismissed. Hence, the order passed by the learned Judicial Magistrate No.I, Dindigul, in Cr.M.P.No. 3286 of 2019 in C.C.No. 67 of 2016 is set aside insofar as the PW.1, PW.4 and PW.6 are concerned. The petitioner is permitted to cross examine PW.1, PW.4 and PW.6 and the Trial Court is directed to fix the date for cross examination of PW.1, PW.4 and PW.6. If the petitioner fails to cross examine PW.1, PW.4 and PW.6, on the said date the Trial Court is directed to proceed with the cross examination on payment of necessary charges. Since the case is of the year 2016, the Trial Court is directed to dispose of the C.C.No.67 of 2016, as expeditiously as possible, in any event, not later than three months from the date of receipt of a copy of this order.

5. This Criminal Original petition is disposed of with the above direction. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Sub Inspector of Police,
Dindigul West Police Station,
Dindigul District,
2. The Judicial Magistrate No.I, Dindigul
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.V.MUTHU SAMUNDESWARAN, Advocate SR-85683.

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