



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.10.2019

CORAM:

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

Crl.O.P. (MD) No.15608 of 2019

and

Crl.M.P. (MD) No.9229 of 2019

1. Mani @ Pandimuthuraja
2. Akash @ Sudhakar
3. Saraswathi
4. Amutha

...Petitioners

-Vs-

The Inspector of Police
Somarasampettai Police Station,
Trichy District
(Crime No.358 of 2015)

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records of the learned Judicial Magistrate No.V, Tiruchirappalli in Cr.M.P.No.409 of 2019 in C.C.No.304 of 2017 and set aside the order dated 05.08.2019 .

For Petitioners : Mr.M.Siddharthan

For Respondent : Mr.K.Suyambulinga Bharathi
Government Advocate(crl.side)

O R D E R

This petition has been filed challenging the order passed by the learned Judicial Magistrate No.V, Tiruchirappalli in Cr.M.P.No.409 of 2019 in C.C.No.304 of 2017, dated 05.08.2019, thereby dismissing the petition filed by the petitioner, under Section 311 Cr.P.C., to recall P.W.1 to P.W.8 cross-examination.

2. The learned counsel for the petitioners would submit that on the date of chief examination of the prosecution witnesses, the counsel appeared for the petitioners/accused, did not present before the trial Court and therefore, the trial Court closed the evidence as there was 'no cross'. The petitioners did not even cross-examined any of the prosecution witnesses. He also relied upon the judgment of the Hon'ble Supreme Court in the case of **Natasha Singh Vs. Central Bureau of Investigation** reported in **2013 (5) SCC 741**. Therefore, the petitioner filed this petition.



3. The learned Government Advocate (criminal side) would submit that all the witnesses have been examined and the case is posted for argument. Hence, he prayed for dismissal of this petition.

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4. Heard both sides.

5. Considering the facts and circumstances of the case, this Court feels that the petitioners may be given one more opportunity to put fourth their defence. Accordingly, the order, dated 05.08.2019, passed by the learned Judicial Magistrate No.V, Tiruchirappalli in Cr.M.P.No.409 of 2019 in C.C.No.304 of 2017, is hereby set aside and the petitioner is permitted to cross examine P.W.1 to P.W.8 on the next hearing date by payment of necessary charges. If the petitioner failed to cross-examine P.W. 1 to P.W.8, the trial Court is directed to proceed with the trial in accordance with law.

6. 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(CS)

Ls

To

- 1.The Judicial Magistrate No.V,
Tiruchirappalli .
- 2.The Inspector of Police
Somarasampettai Police Station,
Trichy District.
- 3.The Additional Public Prosectuor,
Madurai Bench of Madras High Court,
Madurai.

+1CC TO MR.M.SIDDARTHAN, Advocate Sr. No. 94762

Cr1.O.P. (MD) No.15608 of 2019
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TR(18.11.2019) 2P 5C