



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.11.2019

CORAM :

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

Crl.O.P.(MD)No.16531 of 2018

and

Cr.M.P.(MD)No.7309 of 2018

Thaka

... Petitioner

Vs.

State Rep by
The Sub -Inspector of Police,
Pettai Police Station, Pettai,
Tirunelveli District.

... Respondent

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for the records relating to C.M.P.No.957 of 2018 in C.C.No.261 of 2009 on the file of the learned Judicial Magistrate No.V, Tirunelveli dated 14.02.2018 and set aside the same and consequently allow the application filed under Section 311 of Cr.P.C.

For Petitioner : Mr.P.T.Thiraviam

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

O R D E R

This petition has been filed challenging the order passed in C.M.P.No.957 of 2018 in C.C.No.261 of 2009 on the file of the learned Judicial Magistrate No.V, Tirunelveli dated 14.02.2018, thereby dismissed the petition filed under Section 311 of Cr.P.C., to recall the prosecution witnesses P.W.1 to P.W.11 for the purpose of cross examination.

2.The learned counsel for the petitioner submitted that the petitioner is the sole accused in this case. Totally there are eleven witnesses have been examined by the prosecution and due to the inconvenience of the learned counsel appearing for the petitioner, while examining P.W.1 to P.W.11 in chief, the petitioner could not cross-examine P.W.1 to P.W.11, on the date of chief examination itself. Therefore one more opportunity may be given to the petitioner to put fourth his defence. Therefore, he prays to



allow this petition.

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

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

5. It is seen that the petitioner is a sole accused. He has been charged for the offence under Section 304 (A) of IPC causing death of deceased by negligence. The prosecution, cross examined its witnesses in the year 2014-2018. On the date of chief examination, the petitioner failed to cross examine the prosecution witnesses.

6. 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 14.02.2018, passed by the learned Judicial Magistrate No.V, Tirunelveli, is hereby set aside and the petitioner is permitted to cross examine P.W.1 to P.W.11 on the next hearing date by payment of necessary charges. If the petitioner failed to cross-examine P.W.1 to P.W.11, 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 (CS-III)

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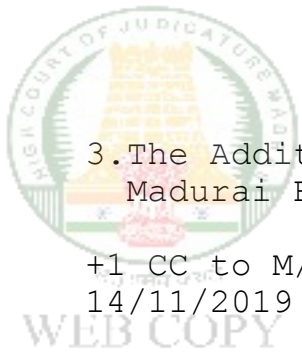
Sub Assistant Registrar(CS)

Dss

To

1.The Judicial Magistrate No.V,
Tirunelveli.

2.The Sub -Inspector of Police,
Pettai Police Station,
Pettai,
Tirunelveli District.



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

+1 CC to M/s.P.T.THIRAVIAM, Advocate (SR-98125[F] dated
14/11/2019)

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and
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JMN (04.12.2019) 3P : 5C