

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.01.2020

CORAM

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

CRL.O.P.No.569 of 2020

and

CrI.M.P.No.347 of 2020

Venkatesan

.... Petitioner/Accused

Vs.

The State rep by
The Inspector of Police,
B-1, Dharmapuri Police Station,
Dharmapuri District.
(Crime No.713/2018)

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed by the Learned Additional District Judge, Dharmapuri, Dharmapuri District in CrI.M.P.No.118 of 2019 in S.C.No. 56 of 2019 dated 13.12.2019.

For Petitioner :Mr.E.Kannadasan

For Respondent :Mr.M.Mohamed Riyaz
Additional Public Prosecutor

सत्यमेव जयते
O R D E R

This petition has been filed to set aside the order passed by the Additional District Judge/ Sessions Judge, Dharmapuri District in CrI.M.P.No.118 of 2019 in S.C.No. 56 of 2019 dated 13.12.2019.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

3. The learned counsel for the petitioner has submitted that the petitioner is facing trial for the alleged offence under Section 364-A of IPC. He further submitted that during trial, on the side of the prosecution from 11.11.2019 to 13.11.2019 P.Ws. 1 to 9 and 11 were examined in chief. He further submitted that since the petitioner could not collect the particulars of the aforesaid witnesses, he could not give proper instructions to his counsel and consequently his counsel did not cross examine the said witnesses. He further submitted that the petitioner has filed a petition under Section 311 of Cr.P.C in CrI.M.P.No. 118 of 2019 on 18.11.2019 to re-call P.W.Nos. 1 to 9 and 11. But the learned Trial Court Judge has dismissed the said petition without giving an opportunity to the petitioner to cross examine the said witnesses and dismissed the said petition. He further submitted that since those witnesses are material witnesses, an opportunity may be given to the petitioner to cross examine the said witnesses, or otherwise the petitioner will put to irreparable loss and hence he prayed to set aside the order passed by the learned Trial Court Judge and give an opportunity to the petitioner to cross examine PW.1 to PW.9 and P.W.11.

4. Per Contra, the learned Additional Public Prosecutor has submitted that already sufficient opportunity was given to the petitioner to cross examine the said witnesses and hence the Trial Court has rightly dismissed the petition to recall the aforesaid witnesses and in the said order this Court need not interfere.

5. Considering the charge being faced by the petitioner, this Court is inclined to give one more chance to the petitioner to cross examine P.W.1 to P.W.9 and P.W.11 by imposing stringent conditions.

6. In the result, this criminal original petition will be allowed on deposit of Rs.10,000/- towards expenses to P.W.1 to P.W.9 and P.W.11 before the Trial Court on or before 23.01.2020, failing which, the petition shall stand dismissed without further reference to this court. In case, the petitioner has complied with the aforesaid condition within the aforesaid period, the trial court is directed to recall P.W.1 to P.W.9 and P.W.11 and give an opportunity to the petitioner to cross examine the said witnesses. The petitioner is directed to cross examine the said witnesses on their appearance without seeking any further adjournment.

7. With the aforesaid directions, this Criminal Original Petition is disposed of. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

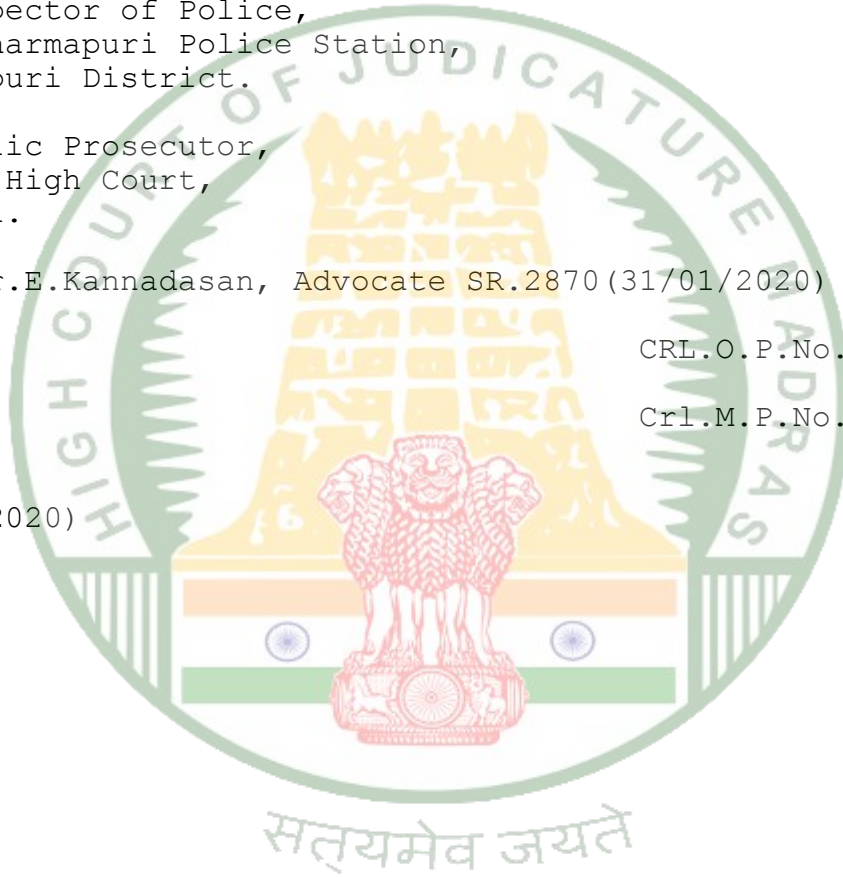
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To

- 1.The Inspector of Police,
B-1, Dharmapuri Police Station,
Dharmapuri District.
- 2.The Public Prosecutor,
Madras High Court,
Chennai.

+1cc to Mr.E.Kannadasan, Advocate SR.2870 (31/01/2020)

CRL.O.P.No.569 of 2020
and
Crl.M.P.No.347 of 2020

NMI (CO)
CB (20/01/2020)



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