

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.02.2020

CORAM

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

CRL.O.P.No.2766 of 2020

and

CRL.M.P. No.1639 of 2020

Munna Alias Mohamed Hussain

... Petitioner

Vs.

The State rep by
The Inspector of Police,
North Police Station,
Tiruppur.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 13.01.2020 in Cr.M.P.No.7316 of 2019 in C.C.No.265 of 2019 on the file of Judicial Magistrate No.I, Tiruppur.

For Petitioner : Mr. K.Sudhakar

For Respondent : Mr. M.Mohamed Riyaz

Additional Public Prosecutor

O R D E R

This petition has been filed by the accused to set aside the order passed by the Judicial Magistrate No.1, Tiruppur in Cr.M.P.No.7316 of 2019 in C.C.No.265 of 2019 dated 13.01.2020.

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 381 of IPC. He further submitted that during trial, on the side of the prosecution, P.Ws 1 to 4 were Examined-in-Chief on 06.12.2019 and since on that date, the petitioner's counsel refused to cross-examine, the said witnesses, on the next hearing date i.e., on 31.12.2019, the petitioner has filed a petition to recall the aforesaid witnesses and the learned Judicial Magistrate has dismissed the said petition without giving an opportunity to the petitioner to cross-examine the said witnesses. He further submitted that since the said witnesses are material witnesses, an opportunity may be given to the petitioner to cross-examine the said

witnesses or otherwise the petitioner will be put to irreparable loss.

4. Per Contra, the learned Additional Public Prosecutor has submitted that the petitioner has not stated any valid reason for not cross-examining in the aforesaid witnesses on 06.12.2019 and taking into consideration of the said fact, the Trial Court has rightly dismissed the petition and therefore he dismissed this petition.

5. Even though the petitioner has not stated any valid reason for not cross-examining P.Ws.1 to 4 on 16.12.2019 itself, taking into consideration the charge being faced by the petitioner and that the aforesaid witnesses are material witnesses, this Court is inclined to give one more chance to the petitioner to cross examine P.Ws.1 to 4 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.Ws.1 to 4 before the Judicial Magistrate No.1, Tiruppur on or before 18.02.2020, 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.Ws.1 to 4 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, the connected Criminal Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//सत्यमेव जयते

Sub Assistant Registrar

ebsi
To

1. The Inspector of Police, North Police Station, Tiruppur.
 2. The Judicial Magistrate No.I, Tiruppur.
 3. The Public Prosecutor, Madras High Court, Chennai.
- +1cc to Mr.K.Sudhakar , Advocate SR.No. 10213

CRL.O.P.No.2766 of 2020
and

Crl.M.P. No. 1639 of 2020

A.SK(11/02/2020)