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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.4923 of 2020 and

Crl.MP.No.2830 of 2020

K.Kalidoss

... Petitioner/Accused

Vs.

The Inspector of Police,
B-5, Harbour Police Station,
Chennai 600 001
Cr.No.36/17

... Respondent/complainant

PRAYER:

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure against the order dated 17.09.2019 passed in Crl.M.P.No.646 of 2019 in CC.No.522 of 2018 on the file of XVI Metropolitan Magistrate Court, George Town, Chennai 600 001 and prays to set aside the same.

For Petitioner : Mr.I.Jesu

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

O R D E R

This Criminal Original Petition has been filed against the order dated 17.09.2019 passed in Crl.M.P.No.646 of 2019 in CC.No.522 of 2018 on the file of XVI Metropolitan Magistrate Court, George Town, Chennai, thereby dismissing the petition to recall the prosecution witnesses 1 to 6 and 8.

2. On perusal of records, it is seen that the case has been taken cognizance in CC.No.522 of 2018 for the offences under Sections 279, 388 and read with 304(a) of IPC, and at the time of chief examination, due to the inconvenience of the learned counsel appearing for the petitioner, the petitioner could not cross-examine PW1 to 6 and 8, who are necessary to be examined. Therefore one more opportunity may be given to the petitioner to put forth his defence by effective cross examination of the above witnesses. Therefore, he prays to allow this petition.



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3. The learned Additional Public Prosecutor would submit that all the above witnesses have already been examined, and the petitioner failed to cross examine them even though opportunity was given. Hence, he prayed for dismissal of this petition.

4. Heard Mr.I.Jesu, the learned counsel for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor for the respondent.

5. 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 17.09.2019, passed by the learned XVI Metropolitan Magistrate Court, George Town, Chennai in CrI.M.P.No.646 of 2019 in C.C.No.522 of 2018, is hereby set aside and the petitioner is permitted to cross examine P.W.1 to 6 and 8 on the date fixed by the trial court on payment of necessary charges, and if the petitioner fails to cross-examine P.W.1 to 6 and 8 on the date fixed by the trial court, the trial Court is directed to proceed with trial in accordance with law.

6. With the above directions, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CO)

True Copy
Sub-Assistant Registrar

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To

1. The learned XVI Metropolitan Magistrate Court,
George Town, Chennai
2. The Inspector of Police,
B-5, Harbour Police Station,
Chennai 600 001
3. The Public Prosecutor,
High Court, Madras.
- 4.The Chief Metropolitan Magistrate
Egmore Chennai



+1 cc to Mr.I.Jesu Advocate sr19166

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