

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2020

CORAM

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

Crl.O.P.No.30321 of 2019
and
Crl.M.P.No.16389 of 2019

Nanjappan

...Petitioner/Accused

-Vs-

The State rep by its
Inspector of Police
All Women Police Station, North
Tiruppur.
Crime No.24 of 2014.

... Respondent/Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to set aside the order dated 30.10.2019 made in Crl.M.P.No.5744 of 2019 in C.C.No.725 of 2014 on the file of the Judicial Magistrate No.I, Tiruppur.

For Petitioner : Mr.M.Guruprasad
For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This petition has been filed by the accused to set aside the order passed by the learned Judicial Magistrate No.I, Tiruppur in Crl.M.P.No.5744 of 2019 in C.C.No.725 of 2014 dated 30.10.2019.

2. The learned counsel for the petitioner has submitted that the petitioner herein has filed Crl.O.P.No.23936 of 2014 before this Court to quash the First Information Report and in that petition, this Court has granted interim stay on 04.09.2014, but when the said stay was in force, the respondent has filed charge sheet and based on the same, the Judicial Magistrate No.I, Tiruppur has taken the case on file in C.C.No.725 of 2014 and commenced trial and nine witnesses were examined on the side of the prosecution as PWs 1 to 9. He further submitted that since already stay was in force, the petitioner's counsel did not cross examine those witnesses when they were examined in chief before the trial Court.

3. He further submitted that in view of the Hon'ble Supreme Court's judgment, since the interim order was not extended even after six months, the Judicial Magistrate has

examined those witnesses and hence, the petitioner has filed a petition under Section 311 Cr.P.C. to recall those witnesses for cross examination. He further submitted that the petitioner is facing charges under Sections 498-A, 323, 324 and 506(ii) of IPC and hence, he prayed to grant one more opportunity to cross examine the said witnesses, but the learned Judicial Magistrate, without giving an opportunity to the petitioner, dismissed the said petition. Hence, he requests to set aside the order of the trial court and grant one more opportunity to the petitioner to cross examine those witnesses.

4. The learned Additional Public Prosecutor has fairly conceded that this Court in Crl.O.P.No.23936 of 2014 has granted interim stay on 04.09.2014, but the respondent, ignoring the same, has filed charge sheet and hence, he requests to pass appropriate orders.

5. Considering the fact that this Court has granted stay in Crl.O.P.No.23936 of 2014 and when the stay was in force, the respondent has filed charge sheet and also taking into consideration of the charges being faced by the petitioner, in order to give one more opportunity to the petitioner to cross examine P.Ws 1 to 9, this Court is inclined to allow this petition by imposing conditions.

6. In the result, this petition will be allowed on deposit of Rs.2000/- (Rupees Two Thousand only) towards expenses to the P.Ws 1 to 9 before the trial court on or before 10.02.2020, failing which, this petition shall stand dismissed without further reference to this court. If the petitioner complied the aforesaid condition within the stipulated time, the learned Judicial Magistrate is directed to recall P.Ws 1 to 9 and permit the petitioner to cross examine the said witnesses. The petitioner shall cross examine the said witnesses on the date of their appearance before the trial court without seeking adjournments.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

dna

To

1.The Inspector of Police
All Women Police Station, North
Tiruppur,
Crime No.24 of 2014.

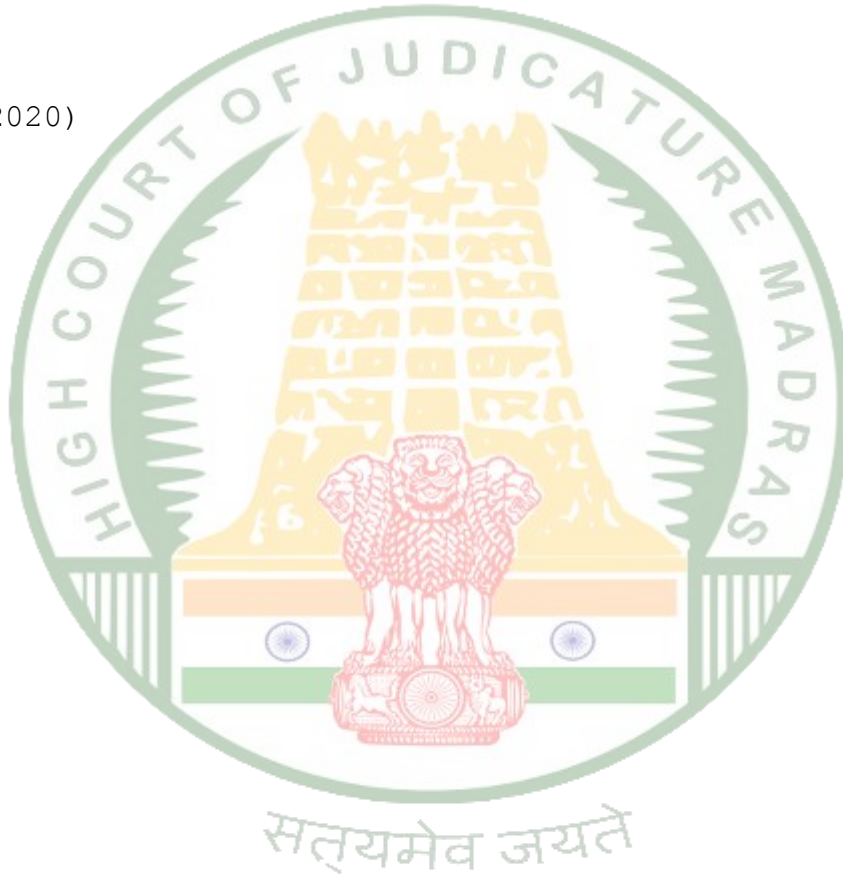
2.The Judicial Magistrate No.I,
Tiruppur.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Guruprasad, Advocate, S.R.No. 6072

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SS (CO)
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