



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.02.2020

CORAM:

THE HONOURABLE MR. JUSTICE **A.D. JAGADISH CHANDIRA**

Crl.O.P. (MD) .No.2971 of 2020
and Crl.M.P. (MD) No. 1572 of 2020

Anandaraj ...Petitioner/Petitioner/Sole accused

Vs.

State rep. by
Inspector of Police,
Aundipatty Police Station.
(Crime No. 668 of 2018) ... Respondent/Respondent/Complainant

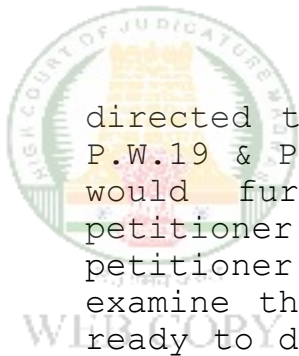
PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records relating to the impugned order of the learned Additional District cum Sessions Judge, Theni at Periyakulam, dated 02.01.2019 made in CrI.M.P.No. 91 of 2019 in S.C.No.80 of 2019 set aside the same .

For Petitioner : Mr.N. Marimuthu
For Respondent : Mr.S. Chandrasekar
Additional Public Prosecutor

O R D E R

The Criminal Original Petition is filed to set aside the order, dated 02.01.2020 in CrI.M.P No.91 of 2019 in SC No.80 of 2019 passed by the learned Additional District cum Sessions Judge, Theni at Periyakulam.

2. The learned counsel appearing for the petitioner would submit that he is a sole accused facing trial in S.C. No. 80 of 2019 before the learned Additional District Cum Sessions Judge, Theni at Periyakulam for the offence under Section 302 of IPC. He would further submit that the petitioner had filed a petition under Section 311 of Cr.P.C. to recall the witnesses P.W.4, P.W.19 & P.W.20. The trial Court by order, dated 02.01.2020 allowed the petition on condition that the petitioner to deposit a sum of Rs.2,000/- (Rupees Two Thousand Only) on or before 10.01.2020 to the District Legal Services Authority attached to the concerned Court and also



directed to pay a sum of Rs.2,000/- each to the witnesses P.W.4, P.W.19 & P.W.20 on or before 10.01.2020 before the trial Court. He would further submit that, due to financial difficulty the petitioner was unable to abide the condition, thereby, the petitioner has lost his chance to recall the witnesses and cross-examine them. He would further submit that now the petitioner is ready to deposit a sum of Rs.2,000/-to the Legal Services Authority and also to pay a sum of Rs.2,000/-each to the witnesses P.W.4, P.W.19 & P.W.20 and prepare to recall them, thereby, the instant petition is filed seeking to set aside the order, dated 02.01.2020 in Crl.M.P No.91 of 2019 in SC No.80 of 2019 passed by the learned Additional District cum Sessions Judge, Theni at Periyakulam. He would further submit that the case was posted on 24.02.2020 for arguments. He would further submit that, if the petitioner is not given one more chance to cross-examine the witnesses he will put to great hardship.

3. The learned Additional Public Prosecutor has enquired the respondent police whether they would be able to produce the witnesses before the trial Court on 24.02.2020 and on instructions, he would submit that he will be able to produce the witnesses P.W.4, P.W.19 & P.W.20 before the trial Court on 24.02.2020.

4. Taking into consideration the facts of the case, this Court is of the opinion that one more chance may be given to the petitioner to recall the witnesses P.W.4, P.W.19 & P.W.20 for cross-examination on imposition of costs and terms.

5. In view of the above, the Criminal Original Petition is allowed and the time granted in order dated 02.01.2020 in Crl.M.P.No. 91 of 2019 in SC No. 80 of 2019 passed by the learned Additional District Cum Sessions Judge, Theni at Periyakulam is extended on the following conditions;

1. The petitioner shall deposit a sum of Rs.11,000/- (Rupees Eleven Thousand only) before the trial Court on 24.02.2020. Out of which, Rs.5000/- shall be paid to the Legal Services Authority attached to the concerned court and Rs.2000/- each shall be disbursed to the witnesses P.W.4 P.W.19 and P.W.20.

2.The petitioner shall cross examine the witnesses on the same day of their appearance and in the event of the petitioner not cross examining on the same day, he will loose his chance of cross examination.

3.In the event of witnesses not being produced on 24.02.2020 by the respondent police, the trial Court shall fix another date for their production.

4.The petitioner shall also co-operate for expeditious disposal of the case in S.C. No. 80 of 2019 on the file of the learned Additional District Cum Sessions Judge, Theni at Periyakulam.

<https://hcservices.ecourts.gov.in/hcservices/> In view of the above directions, the Criminal Original Petition



stands allowed. Consequently, connected miscellaneous petition is closed.

Sd/
Assistant Registrar

/True copy/

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/02/2020
Sub Assistant Registrar

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To

1. The Additional District Cum Sessions Judge,
Theni at Periyakulam.
2. The Inspector of Police,
Aundipatty Police Station.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Officer in charge,
Legal Services Authority,
Additional District cum Sessions Court,
Theni at Periyakulam.

+1cc to Mr.N.Marimuthu, Advocate, SR No.7452

CrI.O.P. (MD) .No.2971 of 2020
20.02.2020

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KK/SAR/21.02.2020/3P-6C