



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2020

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

Crl.O.P (MD)No.4644 of 2020

1. Palanisamy
2. Pon Amirtham

... Petitioners/Accused 1&2

Vs.

The Inspector of Police
Rajapalayam Police Station
Virudhunagar District

... Respondent/Complainant

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in Cr.MP.No.1488 of 2020 in C.C.No.195 of 2015 on the file of learned Judicial Magistrate, Rajapalayam dated 07.03.2020 and set aside the same.

For Petitioners : Mr.R.Mariappan
For Respondent : Mr.A.Robinson
Govt. Advocate (Crl. Side)

O R D E R

The petitioner are figuring as accused in C.C.No.195 of 2015 on the file of the learned Judicial Magistrate, Rajapalayam. They had earlier filed Crl.O.P.(MD)No.15758 of 2015 before this Court for quashing the same. By order dated 26.11.2019, the quash petition was dismissed as regards the petitioners are concerned. This Court had directed the learned Trial Magistrate to conclude the trial within a period of six months. The trial commenced on 03.02.2020. Two witnesses were examined. On 06.02.2020, two more witnesses were examined. Among them one is said to have turned hostile. The petitioner without cross examining the three witnesses chose to apply for recall of the witnesses on 10.02.2020. The Court below dismissed the recall petition by the impugned order. The same is under challenge in this criminal original petition.

2.Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl. Side) appearing for the respondent.

3.I must observe at the very outset that the reasons given by the learned Trial Magistrate are absolutely justified. This Court cannot fault the Trial Magistrate at all. I must also note that I had earlier given a direction for concluding the case itself within a period of six months.



4.However the petitioners' counsel states that the petitioners will remit a sum of Rs.20,000/- while submitting the process application. He gives a further undertaking that all the three witnesses will be cross examined on the same day when they are produced. I am inclined to allow this criminal original petition only because the learned Government Advocate (Crl. Side) states that the witnesses are locally available. If the witnesses are official witnesses or their presence could not be procured without an amount of delay, I would not have interfered. Each of witness will be paid a sum of Rs.5,000/- towards costs. The remaining amount of Rs.5,000/- will be credited by the Court below to the victim compensation fund. If the petitioners fail to remit the said amount within a period of two weeks from the date of receipt of a copy of this order, the order now passed will stand automatically recalled and the order passed by the learned Magistrate will stand confirmed.

5.With these directions, the impugned order is set aside and the criminal original petition is allowed.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

ias

To:

1.The Judicial Magistrate,
Rajapalayam

2.The Inspector of Police
Rajapalayam Police Station
Virudhunagar District.

3.The Additional Public Prosecutor
Madurai Bench of Madras High Court, Madurai.

+1 CC to MR.R.MARIAPPAN, Advocate (SR-11876[F] dated 16/03/2020)

Crl.O.P (MD)No.4644 of 2020

16.03.2020

KM (08.06.2020) 2P 5C