



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2020

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1.O.P. (MD) No.4542 of 2020

Kannan

... Petitioner/ Sole Accused

-vs-

The state represented by the
Inspector of Police,
Manamadurai Police Station,
Sivagangai District
(In Crime No.191 of 2016)

... Respondent/Complainant

PRAYER: Petition filed under Section 482 of the Criminal Procedure Code to call for the records pertaining to the order dated 31.01.2020 made in M.P.No.7045 of 2019 in C.c.No.108 of 2016 on the file of the Additional District Munsif cum Judicial Magistrate, Manamadurai and set aside the same.

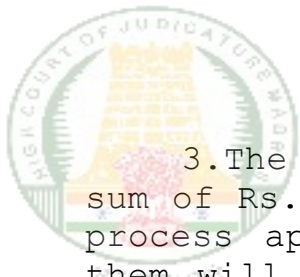
For Petitioner : Mr.V.Selva

For Respondent : Mr.A.Robinson
Government Advocate (Cr1.side)

O R D E R

The petitioner is facing trial in C.C.No.108 of 2016 on the file of the learned Additional District Munsif cum Judicial Magistrate, Manamadurai, for the offences under Section 304 A of IPC. The trial had commenced in the said case. The prosecution examined three witnesses. The petitioner did not cross examine them. After several months, he filed Cr.M.P.No.7045 of 2019 under Section 311 of Cr.P.C. The Court below dismissed the same. Challenging the dismissal, this Criminal Original Petition has been filed.

2.The learned Trial Magistrate was absolutely justified in dismissing the recall petition. However, the petitioner's fate will be doomed as he has not cross examined any of the witnesses. It is arising under Section 304 A of IPC. Therefore, in order to give one more opportunity and in the interest of justice, I am inclined to show some indulgence. But the petitioner has to be put



3. The learned counsel for the petitioner agrees to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) while submitting the process application. After the witnesses are recalled, each of them will be paid a sum of Rs.2,000/- (Rupees Two thousand only) as cost. Remaining Rs.4,000/- will be credited by the Court below to the Victim Compensation Fund. If the petitioner fails to deposit the said amount, this order will stand recalled automatically. He further gives an undertaking that on the date when the witnesses appear, he would cross examine them and that he will not drag on the proceedings further.

4. Subject to this condition, the order in C.C.No.108 of 2016 passed by the learned Additional District Munsif cum Judicial Magistrate, Manamadurai, stands quashed and this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

1. The Additional District Munsif cum Judicial Magistrate,
Manamadurai.

2. Inspector of Police, Manamadurai Police Station,
Sivagangai District.

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

+1 CC to M/s.V.SELVA, Advocate (SR-11683[F] dated 13/03/2020)

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SPU(06.05.2020) 2P 5C