

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 18.02.2021

CORAM

THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.3107 of 2021

1. Chidambaram
2. Karthick @ Sakthivel
3. Vijayakumar
4. Vinoth Kumar
5. Surya @ Elaya Suryan .. Petitioners

Vs.

State rep. by
The Inspector of Police,
Bargur Police Station,
Krishnagiri. ... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to Crl.MP.No.7063/2019 in SC No.107/2019 pending on the file of the Chief Judicial Magistrate, Krishnagiri and set aside the order dated 06.01.2020 passed by the Learned Judicial Magistrate in Crl MP No.7063/2019 in SC No.107 of 2019 and permit the petitioner to recall PW1 to PW14 for the purpose of cross examination and thus render justice.

For Petitioners : Mr.S.Sathyaraj

For Respondent : Mr.M.Mohammed Riyaz
Additional Public Prosecutor

O R D E R

This petition has been filed challenging the order passed by the Court below dismissing the application filed by the petitioners under Section 311 Cr.P.C to recall PW1 to PW14 for cross-examination.

2.The petitioners are facing trial before the Court below for the offences under Sections 457, 511, 399, 402, 380, 120(b), 402, 451, 398 of IPC and r/w 114 of IPC.

3.The prosecution had examined fourteen witnesses and none of these witnesses were cross-examined by the petitioners. The

examination in chief was conducted during the period from 03.10.2019 to 14.10.2019. The reasons assigned by the petitioners for not being able to examine these witnesses is that they were not in possession of certain vital materials at the time when the witnesses were examined in-chief. The Court below through an order dated 06.01.2020, dismissed the application on the ground that no sufficient reasons have been assigned by the petitioners and there is no justification to recall all these witnesses. Aggrieved by the same, the present petition has been filed before this Court.

4. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing on behalf of the respondent.

5. Taking into consideration the facts and circumstances of the case and also the seriousness of the charges faced by the petitioners, this Court is inclined to grant one last opportunity to the petitioners to cross-examine PW1 to PW14 by imposing certain conditions.

6. In view of the above, the order passed by the Court below in CrI.M.P.No.7063 of 2019, dated 06.01.2020 is hereby set-aside. The petitioners are directed to deposit a sum of Rs.14,000/- before the Court below on or before 04.03.2021. Once this condition is complied with, the Court below shall fix a date and recall PW1 to PW14 and on the date of their appearance, each of the witness will be paid cost of Rs.1,000/- (Rupees One Thousand only) from the amount deposited by the petitioners. The petitioners shall cross-examine the witnesses and complete the cross-examination on the same day. If for any reasons, the petitioners fail to cross-examine any of the witnesses on the date of their appearance, the petitioners shall forfeit their right to recall those witnesses in future. It is made clear that if the petitioners fail to deposit the cost as directed by this Court within the time frame, the order passed by the Court below shall stand revived. Apart from these conditions, the petitioners shall cross-examine all the other prosecution witnesses on the same day they are examined in-chief.

7. This criminal original petition is allowed with the above direction.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

ssr

To

1. The Chief Judicial Magistrate, Krishnagiri

2. The Inspector of Police,
Bargur Police Station,
Krishnagiri.

3. The Public Prosecutor,
High Court, Madras.

CrI.O.P.No.3107 of 2021

A.SK(22.02.2021) .



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