



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2021

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.O.P.(MD)No.6215 of 2021

WEB COPY

Shanmugam

... Petitioner / Petitioner /
Accused (Single)

Vs.

The State rep. By,
The Inspector of Police,
CBCID,
Thanjavur District.
(Crime No.1 of 2009)

... Respondent / Respondent /
Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the entire records pertaining to the order passed by the Judicial Magistrate, Thiruvaiyaru, Thanjavur District, in C.M.P.No.865 of 2021 in C.C.No.1 of 2011 dated 01.04.2021 and set aside the same.

For Petitioner : Mr.R.Muruganandam

For Respondent : Mr.T.Senthil Kumar,
Additional Public Prosecutor.

O R D E R

Heard the learned counsel on either side.

2. The petitioner is the sole accused in C.C.No.1 of 2011 on the file of the Judicial Magistrate, Thiruvaiyaru, Thanjavur District.

3. The case was charge sheeted and cognizance was taken in the year 2011. P.W.1 was examined on 09.02.2021. The petitioner did not cross examine the said witness on the said date. He filed C.M.P.No.865 of 2021 later for recall and cross examination of the said witness. By the impugned order dated 01.04.2021, the said petition was dismissed.

4. The approach adopted by the learned trial Magistrate cannot really be faulted. However, in the interest of justice, the petitioner can be given one more opportunity. We must bear in mind that even though the case is more than ten years old, P.W.1 was examined only on 09.02.2021. During the relevant time, the pandemic was at its peak. Therefore, the order impugned in this criminal original petition is set aside.



5. The respondent is directed to cause production of P.W.1 for cross examination on 29.11.2021. It is said to be the next hearing date. The petitioner undertakes to cross examine the said witness on the same date. Under no circumstances, the cross examination of the said witness will spillover to any other date. The petitioner is also directed to pay cost that may be quantified by the Court below. The learned Additional Government Pleader reminds me that a direction has already been given in this case for concluding the trial within four months. The said direction is reiterated.

6. With these directions and recording the undertaking given by the petitioner, this criminal original petition is allowed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PMU

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The Judicial Magistrate,
Thirvaiyaru, Thanjavur District.
- 2.Do Through the Chief Judicial Magistrate,
Thanjavur District.
- 3.The Inspector of Police,
CBCID, Thanjavur District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy to:

The Registrar(Judicial),
Madurai Bench of Madras High Court, Madurai.

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