



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE ON WHICH RESERVED : 15.06.2021

DATE ON WHICH PRONOUNCED : 23.06.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.7711 of 2021

and

Crl.MP(MD)No.3930 of 2021

P.Sankaran

... Petitioner/Accused No.3

Vs.

The Inspector of Police,
CCIW, CID,
Thoothukudi.
Crime No.21 of 2011

... Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for records in Crl.MPNo.3322 of 2021 in C.C.No.24 of 2012 and set aside the order dated 23.04.2021 passed by the Judicial Magistrate No.2, Tirunelveli.

For Petitioner : Mr.S.Pandiyaraj
For Respondent : Mr.R.M.Anbu Nithi,
Additional Public Prosecutor.

ORDER

This Criminal Original Petition is filed to quash the order passed by the Judicial Magistrate No.2, Tirunelveli, in Crl.MPNo.3322 of 2021 in C.C.No.24 of 2012, dated 23.04.2021.

2. The case of the prosecution is that the petitioner is having own land and doing agriculture activities in that land. In the year 2010, due to the flood, crops were damaged. At that time, the Government of Tamil Nadu had announced relief fund for damaged crops. So, the petitioner sent a application to the Primary Agriculture Co-operative Society, Sekkarakudi, to get crop damage relief fund by enclosing proper documents. The Co-operative Society had also accepted the same and sanctioned the relief to the petitioner. The petitioner received only part of the amount and he could not get remaining amount till date because, P.W.1 has lodged a complaint against the petitioner that the petitioner obtained crop damage relief fund by creating forged documents. So, the respondent police registered a case in Crime No.21 of 2011 for the offences under Sections 120(b), 465, 468, 471 and 420 of IPC and the same was taken on file by the learned Judicial Magistrate No.2, Tirunelveli in C.C.No.24 of 2012. The prosecution side witness P.W.1 was examined in chief on 10.01.2020 and on the same day, he was cross examined by the petitioner. P.W.13 was examined in chief on



29.01.2021 and on the same day, she was cross examined by the petitioner. Even though, P.W.1 and P.W.3 were cross examined by the petitioner, due to non-availability of some revenue and society documents, he could not able to cross-examine the witnesses fully. So, he filed a petition under Section 311 Cr.P.C to re-call of P.W.1 and P.W.13 for further examination. That petition was dismissed by the Judicial Magistrate No.2, Tirunelveli, dated 23.04.2021. Hence, this petition.

3. The learned counsel for the petitioner would submit that order to withdraw the remaining relief fund, which was withheld is required to be brought on record by way of cross-examining P.W.1 and P.W.13 and one last opportunity may be given to the petitioner to cross-examine P.W.1 and P.W.3 and the petitioner will not drag on the proceedings any more.

4. Heard both sides.

5. It is seen that the only grievance that has been expressed by the learned counsel for the petitioner is that due to the subsequent development, permission was granted by the Primary Agriculture Co-operative Society, Sekkarakudi, to withdraw the remaining relief fund, which was withheld is required to be brought on record by way of cross-examining P.W.1 and P.W.13. According to him, this further development will prove his innocence. Even though, it is a subsequent development, when the petitioner says that this aspects will prove his innocence, it may not be proper on the part of this Court to reject the request. So, fair trial requires fair treatment. Not only the witnesses, but, also the accused.

6. So, on this sole ground, I am of the considered view that one last opportunity must be given to the petitioner to cross-examine P.W.1 and P.W.13 on payment of cost.

7. So, in the light of the above, I am of the considered view that this petition is liable to be allowed and the order passed by the learned Judicial Magistrate No.2, Tirunelveli, in Crl.MPNo.3322 of 2021 in C.C.No.24 of 2012, dated 23.04.2021, is quashed with the following conditions:-

(i) The petitioner must deposit Rs.1500/- (Rupees One Thousand and Five Hundred Only) as cost to the each witness before the Trial Court within 15 days from the date of resumption of normal work.

(ii) The Trial Court may fix a date for cross examination of the witnesses and shall send summons to the witnesses.

(iii) On the date fixed, the petitioner must cross examine the witnesses without fail. If any failure is noticed, then the right of cross examination of the witnesses will be lost.

<https://hcservices.courts.gov.in/hcservices/> above direction, this Criminal Original Petition is



allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

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Sub Assistant Registrar(CS)

dss

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 No.2,
Tirunelveli.
2. The Inspector of Police,
CCIW, CID,
Thoothukudi.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.7711 of 2021
and
Cr1.MP (MD)No.3930 of 2021
23.06.2021

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