



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.06.2021**

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGOVAN**

Crl.O.P. (MD)No.7964 of 2021

and

Crl.M.P(MD) Nos.4088 and 4089 of 2021

WEB COPY

Rajasankar

... Petitioner/Petitioner/Accused

Vs.

State rep by
The Inspector of Police,
All Women Police Station Rural,
Tirunelveli,
Tirunelveli District.
(Crime No.8/2019)

... Respondent/Respondent/
Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to set aside the order passed in Cr.M.P.No.699/2021 in C.C.No.40/2020 on the file of the Judicial Magistrate /Additional Mahila Court, Tirunelveli, dated 22.04.2021.

For Petitioner : Ms.D.Saravanan

For Respondent : Mr.R.M.Anbunidhi

Additional Public Prosecutor

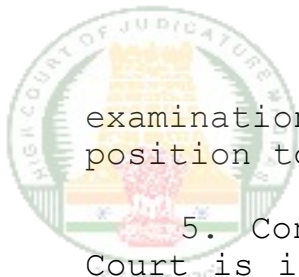
O R D E R

This petition has been filed to set aside the order passed in Cr.M.P.No.699/2021 in C.C.No.40/2020 on the file of the Judicial Magistrate /Additional Mahila Court, Tirunelveli dated 22.04.2021

2. The case of the petitioner is that he has filed an application under Section 311 of Cr.P.C. to recall P.W.1 and P.W.2 before the trial Court for the purpose of cross-examination of witnesses, since he is not in a position to get proper instructions from his advocate whether the witnesses were cross-examined or not? On that basis, he filed a petition before the trial Court. After hearing all the parties, the trial Court has passed a detailed order by referring the judgment of the Hon'ble Supreme Court in the case of **Hanuman Ram vs. State of Rajasthan reported in (2008) 3SCC 602** and **State (NCT of Delhi) vs. Shiv Kumar reported in (2016) 2 SCC 402** and dismissed the petition filed by the petitioner.

3. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor.

4. The learned counsel appearing for the petitioner would submit that since the counsel for the petitioner, who appeared before the trial Court, was not well on the date of chief



examination of witnessess namely P.W.1 and P.W.2, they are not in a position to cross-examine the witnesses on the same day.

5. Considering the facts and circumstances of the case, this Court is inclined to set aside the order passed in Cr.M.P.No.699 of 2021 in C.C.No.40 of 2020 on the file of the Judicial Magistrate/Additional Mahila Court, Tirunelveli, with a condition that the petitioner shall deposit a sum of Rs.1,500/- (Rupees One Thousand Five Hundred Rupees Only) before the trial Court as cost. On such deposit, the trial Court is directed to recall the witnesses namely P.W.1 and P.W.2 for the purpose of cross-examination of witnesses and the petitioner can cross-examine the witnesses on the day fixed by the trial Court. The petitioner shall not get any adjournment. If the petitioner do not cross-examine the witnesses, the order will stand cancelled on the same day itself.

6. With these directions, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ssb

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 /Additional Mahila Court,
Tirunelveli.

2.The Inspector of Police,
All Women Police Station Rural,
Tirunelveli, Tirunelveli District.

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

+1 CC to M/s.D.SARAVANAN, Advocate (SR-19581[F] dated 18/06/2021)

Crl.O.P.(MD)No.7964 of 2021

18.06.2021

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