



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.ILANGOVAR

Crl.O.P.(MD)No.9622 of 2021

and Crl.M.P(MD)No.4912 of 2021

WEB COPY

- 1.Krishnamoorthi
- 2.Dinesh
- 3.Sankar
- 4.Ganesamoorthi
- 5.Packiyaraj

... Petitioners/Petitioners/A2 to A6
Vs.

State rep. by the
Sub Inspector of Police,
Nadukaveri Police Station,
Thanjavur District.

(In Crime No.153 of 2013) ... Respondent/Respondent/Complainant
PRAYER : Criminal Original Petition is filed under Section 482 of
Cr.P.C, to set aside the dismissal order passed in C.M.P.No.1901 of
2020 in C.C.No.128 of 2015 on the file of the Judicial Magistrate,
Thiruvaiyaru dated 29.04.2021.

For Petitioners : Mr.S.Deenadhayalan

For Respondent : Mr.R.M.Anbunithi

Additional Public Prosecutor

O R D E R

This petition has been filed seeking to set aside the dismissal order passed in C.M.P.No.1901 of 2020 in C.C.No.128 of 2015 on the file of the Judicial Magistrate, Thiruvaiyaru dated 29.04.2021.

2. The petitioners are facing charges for the offences under Sections 147, 294(b), 352, 354, 506(ii) IPC before the trial court.

3. The learned Additional Public Prosecutor submits that P.W.3 and P.W.5 were examined in chief on 19.07.2017 but on that day, there was no cross-examination on the part of the petitioner and it was closed. He would further submit that the case was posted on 24.07.2021 for the purpose of further examination of the witnesses.

4. On a perusal of records, it is seen that after lapse of 3 years, a petition has been filed seeking permission to cross-examine P.W.3 and P.W.5. It is mentioned in the order that the judgment reported in **2015(3)SCC 220 in Vinod Kumar Vs. the State of Punjab** is relied on by the State. It is also stated in the order that no such reasons were given by the petitioner to cross-examine P.W.3 and P.W.5 and on that finding, the petition came to be dismissed.



Challenging the said order, the present petition has been filed.

5. The learned counsel for the petitioners submits that on the date of chief examination, the senior counsel could not appear before the court and since the junior counsel has appeared, it was recorded that there was no cross-examination.

6. This Court heard the submissions made on either side and perused the entire records carefully.

7. Considering the nature of the offences that are alleged against the petitioners, final opportunity can be given to the petitioners to cross-examine P.W.3 and P.W.5 on the following conditions:

The petitioners shall deposit Rs.1500/- (Rupees one thousand and five hundred only) as cost before the concerned court. On such deposit being made, the learned Judicial Magistrate, Thiruvaiyaru shall fix a specific date for cross-examination and send summons to P.W.3 and P.W.5 to appear on that day. The petitioners shall cross-examine them on the same day without further adjournment. If any violation noticed, their right to cross-examine P.W.3 and P.W.5 will be forfeited.

8. With the above direction, the order passed C.M.PNo.1901 of 2020 in C.C.No.128 of 2015 on the file of the Judicial Magistrate, Thiruvaiyaru dated 29.04.2021 is set aside.

9. In the result, this petition is allowed to the extent indicated above. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

CM

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,
Thiruvaiyaru

2.The Sub Inspector of Police,
Nadukaveri Police Station,
Thanjavur District.

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

+1 CC to M/s.S.DEENADHAYALAN, Advocate (SR-23029[F] dated
19/07/2021)

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19.07.2021

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