



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.07.2021

CORAM :

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THE HONOURABLE **Mr. JUSTICE G.ILANGOVAN**

Crl.O.P.(MD)No.8872 of 2021

1. Chellammal @ Maria Nesam
2. Natarajan @ Devasahayam

... Petitioners

Vs.

The Inspector of Police,
Kulasekaram Police Station,
Kanyakumari District.

... Respondent

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 27.01.2021 passed in Crl.M.P.No.11 of 2021 in S.C.No.85 of 2010 on the file of the learned Assistant Sessions Judge, Padmanabhapuram and permit the petitioner to cross examine the witness P.W.1 to P.W.5.

For Petitioners	: Mr.S.C.Herold Singh
For Respondent	: Mr.R.M.Anbunithi, Additional Public Prosecutor

ORDER

This petition is filed seeking to set aside the order dated 27.01.2021 passed by the trial Court in Crl.M.P.No.11 of 2021 in S.C.No.85 of 2010.

2. This petition has been filed by the petitioners under Section 311 of Cr.P.C., to recall the witnesses for the purpose of further cross examination.

3. The learned counsel for the petitioner submits that the case was handled by the previous advocate and later, he entered appearance on behalf of the petitioners.

4. It is submitted that on going through the deposition of witnesses, it came to the notice that the cross examination was done by the previous counsel, which is not sufficient and on that ground, the petitioners filed the petition to recall the witnesses. The learned trial Judge has dismissed the petition on the ground that it is a belated petition and change of advocate cannot be a ground for allowing this petition.



5. Now, the learned counsel for the petitioner submits that since the dispute between the parties is civil in nature, one more opportunity may be given to the petitioners to substantiate their defence.

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6. Considering the fact that the case is of the year 2010 and in the interest of justice, I am of the considered view that one more opportunity can be given to the petitioners to put forth their defence fully. On that ground, the petition is allowed on the following conditions:

(i) The petitioners shall deposit a sum of Rs.2,000/- (Rupees two thousand only) as costs to the witnesses, namely, P.W.1 to P.W.5, within 15 days from the date of receipt of a copy of this order.

(ii) On such deposit being made, the learned trial Judge shall recall the witnesses by fixing a date and on that day, the petitioners shall cross examine all the witnesses on the same day itself, without seeking any further adjournment. If any failure is noticed, this right of cross examination will be forfeited.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 Assistant Sessions Judge, Padmanabhapuram.

2. The Inspector of Police,
Kulasekaram Police Station,
Kanyakumari District.

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

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-21589[F] dated 07/07/2021)

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sss (CO)

TR(14.07.2021) 2P 5C

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