



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :13.09.2021
CORAM :

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

Crl.O.P. (MD) Nos.13310 & 13335 of 2021
CRL.M.P. (MD) Nos.6896 & 6887 of 2021

Visalam ... Petitioner in both petitions/
Accused No.2
Vs.
State rep.through the
Inspector of Police,
CCIW, CID,
Nagercoil. ... Respondent in both petitions/
Respondent

Prayer : Criminal Original Petition is filed under Section 482 Cr.P.C., to set aside the order passed in Crl.M.P.Nos.9974 & 9976 of 2019 in C.C.Nos.48 & 50 of 2006 dated 18.02.2021 on the file of the Judicial Magistrate No.II, Tirunelveli (CCIW-Special Court).

In both petitions

For Petitioner :Mr.J.Madhu

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor.

COMMON ORDER

These Petitions have been filed to set aside the order passed in Crl.M.P.Nos.9974 & 9976 of 2019 in C.C.Nos.48 & 50 of 2006 dated 18.02.2021 on the file of the Judicial Magistrate No.II, Tirunelveli (CCIW-Special Court).

2.The learned counsel appearing for the petitioner would submit that in both the cases, the petitioner is facing charges under Sections 408, 467, 468, 471, 477(A) and 120(B) of IPC. He would further submit that on 04.04.2019, P.W.26 in C.C.No.50 of 2006 and P.W.27 in C.C.No.48 of 2006 were examined in chief, but, they were not cross-examined on the same day. Hence, the petitions were filed before the trial Court for recall of P.W.26 in C.C.No.50 of 2006 and P.W.27 in C.C.No.48 of 2006 in Crl.M.P.Nos.9974 & 9976 of 2019 and only on the ground of delay, the same was dismissed.

3. The learned counsel appearing for the petitioner would further submit that due to the absence of the counsel for the petitioner, who appeared before the trial court, P.W.26 in C.C.No.50



of 2006 and P.W.27 in C.C.No.48 of 2006 were not cross-examined.

4. In view of the above submission, I am of the considered view that one more opportunity can be given to the petitioner to cross-examine the witnesses of P.W.26 in C.C.No.50 of 2006 and P.W.27 in C.C.No.48 of 2006, who are the Investigating Officers. Hence, the orders passed in Crl.M.P.Nos.9974 & 9976 of 2019 in C.C.Nos.48 & 50 of 2006 dated 18.02.2021 on the file of the Judicial Magistrate No.II, Tirunelveli (CCIW-Special Court) stand set aside.

5. Accordingly, the Criminal Original Petitions stand allowed on condition that the petitioner shall deposit a sum of Rs.2,000/- (Rupees Two Thousand Only) as costs each to P.W.26 and P.W.27. On such deposit, the learned Judicial Magistrate No.II, Tirunelveli (CCIW-Special Court) may recall the witnesses of P.W.26 in C.C.No.50 of 2006 and P.W.27 in C.C.No.48 of 2006 by fixing a date for cross-examination by the petitioner and on that date, the petitioner must cross-examine the witnesses. If she fails to cross-examine the witness, her right will be forfeited for examination. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

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.Judicial Magistrate No.II, Tirunelveli (CCIW-Special Court).

2.Inspector of Police,
CCIW, CID, Nagercoil.

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

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RD(10.01.2022) 2P 4C