



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.09.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.ILANGOVAN

CRL OP (MD) No.14122 of 2021

WEB COPY

Velmurugan

... Petitioner/Petitioner/Sole Accused

-Vs-

The State represented by
The Sub-Inspector of Police,
Jaihindpuram Police Station,
Madurai City.

(Crime No. 899 of 2016) ... Respondent/Respondent/Complainant

PRAYER: The Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the entire records pertaining to the order passed by the learned Judicial Magistrate No.IV, Madurai in Crl.M.P.No. 425 of 2021 in C.C.No.277 of 2016 dated 04.05.2021 and set aside the same.

For Petitioner : Mr.M.Pitchai Muthu

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl. side)

O R D E R

This petition has been filed to set aside the order passed by the learned Judicial Magistrate No.IV, Madurai in Crl.M.P.No. 425 of 2021 in C.C.No.277 of 2016 dated 04.05.2021.

2.The petitioner is facing trial for the offence punishable under Section 394 IPC before the trial Court. It appears that PWs 1 to 4, 8 & 9 were not cross examined by the petitioner on the date of the chief examination. Later he has filed the petition to recall the witnesses to cross examine them. It came to be dismissed on the ground of inordinate delay. The trial Court has pointed out that PW1 aged about 67 years, PW2 is 71 years, who were examined in chief in the year 2017 and other witnesses have also been examined in the years 2017 & 2018. Finding that there was inordinate delay on the part of the petitioner, the petition came to be dismissed. It appears that the learned counsel for the petitioner was also present during the course of chief examination.

3.However, it is seen that the petitioner is facing charges under Section 394 IPC and without cross examining the evidences a



fair trial may not be possible. On that sole ground this Court is of the considered view that on stringent conditions, permission may be granted to the petitioner to cross examine the PWs 1 to 4, 8 & 9.

1) The petitioner must deposit a sum of Rs.2,000/- (Rupees Two Thousand only) as cost to each of the witnesses to the credit of C.C.No.277 of 2016 before the trial Court, within a period of 15 days from the date of receipt of a copy of this order.

2) On such deposit, the trial Court is directed to recall the witnesses P.Ws.1 to 4, 8 & 9 for cross examination by fixing a particular date. On that date, the petitioner must cross examine the witnesses without fail. If any failure is noticed, then the further right to cross examine the witnesses will be forfeited.

4. With the above directions, this criminal original petition is allowed and the order passed by the trial Court in Crl.M.P.No.425 of 2021 in C.C.No.277 of 2016 dated 04.05.2021, is hereby set aside.

Sd/-

Assistant Registrar (w)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TM

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.IV, Madurai.

2. The Sub-Inspector of Police,
Jaihindpuram Police Station,
Madurai City.

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

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RD(6.10.2021) 2P 4C