



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **24.09.2021**

CORAM

THE HONOURABLE MR.JUSTICE **G.ILANGOVA**

Crl.O.P(MD)No.14335 of 2021

and

Crl.M.P.(MD)No.7501 of 2021

WEB COPY

1.Veerappan
2.Jeyam @ Bharathiraja
3.Selvamani
4.Karthick
5.Mariyammal

... Petitioners

Vs.

The Inspector of Police,
Thiruvonam Police Station,
Thanjavur District.
Crime No.71 of 2016

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the order in Crl.M.P.No.93 of 2021 in S.C.No.276 of 2016 dated 31.08.2021 passed by the learned III Additional District Judge, Thanjavur at Pattukkottai and to allow the cross examination of PW1 to PW4 in S.C.No.276 of 2016.

For Petitioners : Mr.K.K.Ramakrishnan

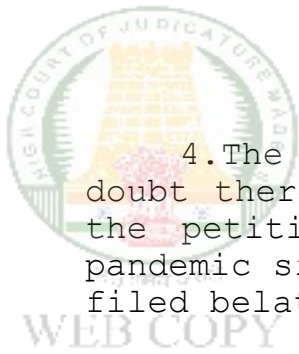
For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl. side)

ORDER

This criminal original petition has been filed to set aside the order passed in Crl.M.P.No.93 of 2021 in S.C.No.276 of 2016 dated 31.08.2021 passed by the learned III Additional District Judge, Thanjavur at Pattukkottai, which was filed by the accused who are facing the charges under Sections 147, 148, 294(b), 324 and 307 of IPC.

2.Heard the learned counsel appearing on either side and perused the records carefully.

3.On perusal of the orders, it is seen that P.Ws.1 to 4 were examined in chief in 2017 itself. But, at the time of chief examination, they have not been cross examined by the petitioners. However, the petition for cross examination in Crl.M.P.No.93 of 2021 came to be filed only in the year 2021. Therefore, noting the delay and laxity on the part of the accused, the petition in Crl.M.P.No.93 of 2021 came to be dismissed.



4.The learned counsel for the petitioners would submit that no doubt there is delay and laxity and a new counsel was appointed by the petitioners only in the year 2019 and after that, Covid-19 pandemic situation came. Only because of that, the petition has been filed belatedly in the year 2021.

5. Such sort of explanation though may not be acceptable, on the face of it, it is not also correct. But considering the fact that the petitioners are facing the serious allegation under Section 307 of IPC, I am of the considered view that if the eyewitnesses P.Ws1 to 4 are allowed not to be cross examined, fair justice may not be possible. Only on the sole ground, this Court feels that one more opportunity shall be given to the petitioners to cross examine the witnesses on the following conditions:-

(i)The petitioners must deposit Rs.2,000/- (Rupees Two Thousand Only) as Cost to each witness, before the Trial Court within 15 days from the date of receipt of copy of the order;

(ii)The Trial Court may fix a date for cross examination of the witnesses and shall send summons to the witnesses;

(iii)On the date fixed, the petitioners must cross examine the witnesses without fail. If any failure is noticed, then the right of the petitioners to cross examine the witnesses will be lost.

6.With the above Conditions, the order passed in Crl.M.P.No.93 of 2021 in S.C.No.276 of 2016 dated 31.08.2021 passed by the learned III Additional District Judge, Thanjavur at Pattukkottai, is quashed and accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

cp

Note:(i) 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 III Additional District Judge,
Thanjavur at Pattukkottai.
- 2.The Inspector of Police,
Thiruvonam Police Station,
Thanjavur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P(MD)No.14335 of 2021
24.09.2021

RK(12.10.2021) 3P 4C