



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)No.18342 of 2021

and

Crl.M.P. (MD)No.10068 of 2021

Karumari Kuttan @ Benet Raj

... Petitioner

Vs.

State represented by
The Inspector of Police,
Thuckalay Police Station,
Kanyakumari District.

... Respondent

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to stay all the further proceedings in C.C.No.19 of 2018 on the file of the Judicial Magistrate Court No.I, Padmanabhapuram, pending disposal of the above petition.

For Petitioner : Mr.R.J.Karthick
For Respondents : Mr.T.Senthil Kumar,
Addl. Public Prosecutor.

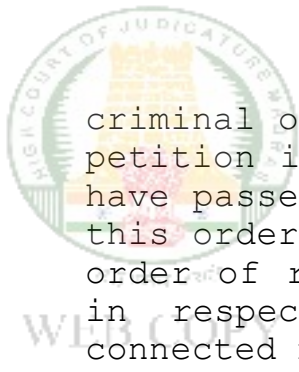
O R D E R

This criminal original petition has been filed by the sole accused in C.C.No.19 of 2018 on the file of the Judicial Magistrate No.I, Padmanabhapuram.

2.The petitioner is facing trial for the offences under Sections 338, 279, 337 and 304(A) of IPC and Section 192(1), 196, 181(3) and 192(A) of Motor Vehicles Act. As many as six witnesses were examined by the prosecution on 21.02.2019. But they were not cross examined on the same day. Later, recall petition was filed. In the recall petition no convincing reason was set out. Therefore, the Court below rightly dismissed the recall petition filed by the petitioner herein. Questioning the same, this criminal original petition has been filed.

3.Even though I cannot fault the approach of the Court below, in the interest of justice, I am inclined to grant one more opportunity to the petitioner herein. The petitioner's counsel states that apart from the usual batta to be paid for summoning of witnesses, for each of the witnesses, the petitioner would pay a sum of Rs.1000/- as costs.

4.Recording the said undertaking, the order impugned in this



criminal original petition is set aside and this criminal original petition is allowed. I make it clear that if any of the witnesses have passed away or the present whereabouts could not have traced, this order cannot be invoked as against them. In other words, the order of recall now granted by this Court will be available only in respect of witnesses, who are available. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

// 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 Judicial Magistrate No.I,
Padmanabhapuram.
- 2.The Inspector of Police,
Thuckalay Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R.J. KARTHICK, Advocate (SR-35759[F] dated 24/11/2021)

**Crl.O.P (MD)No.18342 of 2021
24.11.2021**

MA (CO)
SB(03.12.2021) 2P 5C