



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 06.10.2021

CORAM

The Hon`ble Mr.Justice G.ILANGO VAN

CrI.O.P (MD) .No.15266 of 2021

WEB COPY

1.Thangamani
2.Vanchikodi
3.Navamani
4.Annamayil

... Petitioners / Accused 1 to 4

Vs

The Inspector of Police,
Karuppayaurai Police Station,
Madurai District.

... Respondent / Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order passed by the learned Judicial Magistrate No.II, Madurai in Cr.M.P.No.1329 of 2021 in C.C.No.543 of 2013 dated 01.04.2021.

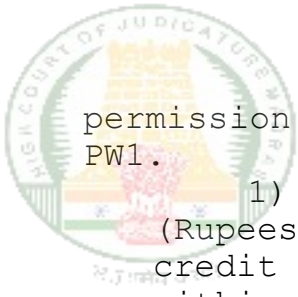
For Petitioner : Mr.G. Karuppasamay Pandiyan
For respondent : Mr.RMS. Sethuraman
Additional Public Prosecutor

ORDER

This petition has been filed to set aside the order, dated 01.04.2021 passed in Cr.M.P.No.1329 of 2021 in C.C.No.543 of 2013 by the learned Judicial Magistrate No.II, Madurai.

2. The petitioners have filed the said petition for recalling the PW.1 for the purpose of cross examination. The case of the petitioners is that they are facing trial for the offences under Sections 147, 148, 294(b), 323, 324 and 506(ii) IPC and the case is of the year 2013. Only one witness PW.1 was examined as Chief in the year 2018 and that the present petition has been filed after a lapse of 2 ½ years. Moreover, no bonafide reasons given in the petition for the delay in filing the petition and that there is a delay on the part of the petitioner, the said petition came to be dismissed by the trial Court.

3. Even though the reason for non cross examination of PW.1 was not properly mentioned, considering the fact that the petitioner is facing offence under Section 324 IPC, one more opportunity may be given to him to cross examine the PW.1, who is a injured person. Further, without giving an opportunity to cross examine the witnesses 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 PW1.

1) The petitioners must deposit a sum of Rs.2,000/- (Rupees Two Thousand only) as cost to the witness to the credit of C.C.No.543 of 2013 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.W.1 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 Cr1.M.P.No.1329 of 2021 in C.C.No.543 of 2013 dated 01.04.2021, is hereby set aside.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

trp

To

1. The Judicial Magistrate No.II, Madurai.
2. The Inspector of Police,
Karuppayaurai Police Station,
Madurai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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