



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGO VAN**

Crl.O.P. (MD) No.15060 of 2021

WEB COPY

V.Surya

... Petitioner/Petitioner/
Accused

Vs.

State represented by
Inspector of Police,
Thiruvaiyaru Police Station
Thanjavur.

... Respondent/Respondent/
Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the entire records pertaining to the order passed by the Learned Judicial Magistrate, Thiruvaiyaru in CMP No.1266 of 2021 in C.C.No.44 of 2017 vide order dated 13.08.2021 and set aside the same.

For Petitioner : Mr.A.Sivasubramanian

For Respondent : Mr.RMS.Sethuraman
Additional Public Prosecutor

ORDER

This petition is filed seeking an order to set aside the order passed in CMP No.1266 of 2021 in C.C.No.44 of 2017 on the file of the learned Judicial Magistrate, Thiruvaiyaru, dated 13.08.2021.

2.The petitioner is facing an offence under Section 304 (A) of IPC before the trial Court in C.C.No.44 of 2017. It appears that P.Ws.1, 2 and 12 were not cross-examined by the petitioner on the date of chief examination. Seeking to recall the aforesaid witnesses for the purpose of cross-examining them, the petitioner filed CMP No.1266 of 2021 and that came to be dismissed holding that no proper reason has been given and after a lapse of 3 years, the petition came to be filed.

3.No doubt, there is a long delay on the part of this
<https://hcservices.mca.gov.in/hcservices/> filing the aforesaid petition. However, the



petitioner is facing charge under Section 304 (A) of IPC, which is a serious one. Without cross-examining the aforesaid witnesses, a fair justice may not be possible. Only on the sole ground, I am of the considered view that this petition is liable to be allowed and accordingly, it stands allowed with the following conditions:-

i) Within a period of 15 days from the date of receipt of a copy of this order, the petitioner must deposit a sum of Rs.2,000/- each to P.W1, P.W2 and P.W12 as cost.

ii) On such deposit, the trial Court may recall the aforesaid witnesses for the purpose of cross-examination by fixing a particular date.

iii) On the particular date to be fixed by the trial Court, the petitioner without fail must cross-examine all the aforesaid witnesses.

iv) If any failure is noticed, the right of cross-examination in future will be forfeited forever.

Sd/-

Assistant Registrar (AD-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,
Thiruvaiyaru.

2.The Inspector of Police,
Thiruvaiyaru Police Station,
Thanjavur.

3.V.Surya,
S/o.Vellaiappan,
53,Mattu Sandhai Road,
Pattukottai,
Thanjavur District.

<https://hcservices.ecourts.gov.in/hcservices/>



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

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RK/UV(09/11/2021) 3P 5C