



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2021

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD).No.15553 of 2020

and

Crl.O.P(MD).No.7604 of 2020

Pandi

... Petitioner/Accused

Vs.

State rep., by
The Sub-Inspector of Police,
Traffic Investigation Wing No.1,
Madurai City.

... Respondent/Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records in Crl.M.P.No.3963 of 2020 in C.C.No.217 of 2014 and set aside the order dated 06.10.2020 passed by the Judicial Magistrate No.IV, Madurai.

For Petitioner : Mr.S.Pandiyaraj

For Respondent : Mr.A.Robinson

Government Advocate (Criminal side)

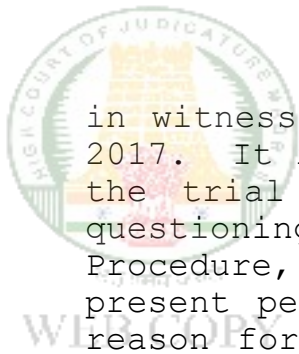
O R D E R

The present petition is filed to set aside the orders dated 06.10.2020 passed by the learned Judicial Magistrate No.IV, Madurai in Crl.M.P.No.3963 of 2020 in C.C.No.217 of 2014.

2.The petitioner is the accused in C.C.No.217 of 2014 on the file of the learned Judicial Magistrate No.IV, Madurai. He filed a petition under Section 311 of Code of Criminal Procedure for recalling P.W.1, P.W.2, P.W.10 and P.W.11 for cross-examination and the said petition was dismissed by the learned Judicial Magistrate No.IV, Madurai on 06.10.2020. Aggrieved over the same, the present petition is filed.

3.The main contention of the petitioner is that P.W.1 is the eye witness to the occurrence and that if the witness is not cross-examined, it would affect the rights of the accused. His further contention is that P.W.1, P.W.10 and P.W.11 are important witnesses and unless an opportunity is granted to the accused, it would adversely affected him. It is the further submission that the trial Court without considering the same, dismissed the said petition.

4.A perusal of the orders passed by the learned Judicial Magistrate No.IV, Madurai clearly shows that the petitioner/accused did not cross-examine the P.W.1, P.W.10 and P.W.11, when they were



in witness box. In fact, they were examined during the year 2016-2017. It is admitted by the learned counsel for the petitioner that the trial in C.C.No.217 of 2014 is already concluded and after questioning the accused under Section 313 of Code of Criminal Procedure, the case is reserved for judgement. At that stage, the present petition was filed by the accused. In the absence of any reason for not cross-examining the witnesses, the present petition cannot be allowed. The learned Judicial Magistrate has considered all aspects in proper perspective and there is no good ground to set aside the same.

5.In the result, the Criminal Original Petition is dismissed. The learned Judicial Magistrate No.IV, Madurai, is directed to dispose of C.C.No.217 of 2014 within a period of two weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (RTI Act)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

rmk

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,
Traffic Investigation Wing No.1,
Madurai City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD) .No.15553 of 2020
20.01.2021

NR (09/02/2021) 2P : 4C

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