



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.12.2021

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)No.19395 of 2021

and

Crl.M.P. (MD)No.10825 of 2021

WEB COPY

1.Bupesh Kannan

2.Sankaramurthy

... Petitioners/A1 & A2

Vs.

State by

The Inspector of Police,

Thoothukudi South Police Station,

Thoothukudi.

... Respondent/Complainant

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to set aside the order passed by the 1st Additional District Judge, Thoothukudi made in Cr.M.P.No.4602 of 2021 dated 17.11.2021 and recall the two witnesses ie., P.W.1 and P.W.14 for further cross examination.

For Petitioners : Mr.V.Malaiyendran

For Respondent : Mr.T.Senthil Kumar,
Addl. Public Prosecutor.

O R D E R

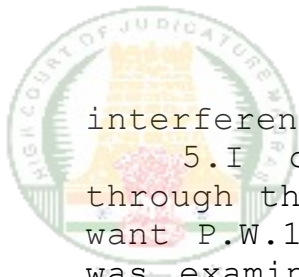
Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the respondent.

2.The petitioners are facing trial in S.C.No.50 of 2013 on the file of the I Additional District and Sessions Court, Thoothukudi. They filed Cr.M.P.No.4602 of 2021 for recall of two witnesses. The said petition was dismissed by the Court below vide order dated 17.11.2021. Questioning the same, this criminal original petition has been filed.

3.The learned counsel for the petitioner reiterated all the contentions set out in the memorandum of grounds and submitted that if the witnesses in question are not recalled and allowed to be cross examined, the petitioners' right to defence will be seriously infringed.

4.Per contra, the learned Additional Public Prosecutor submitted that the impugned order does not call for any

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



interference.

5.I carefully considered the rival contentions and went through the materials on record. It is seen that the petitioners want P.W.1 and P.W.14 to be recalled and cross examined. P.W.1 was examined on 21.11.2019. He was cross examined on the same date. Thereafter, recall petition was filed and P.W.1 was recalled and once again cross examined on 26.02.2020. P.W.14 was examined in chief on 12.12.2019. He was cross examined on the same date.

6.The case is now posted for arguments on 09.12.2021. It is obvious that the purpose of filing this recall petition was only to drag on the proceedings. The Court below has rightly denied the petitioners' request. When P.W.1 was already recalled and cross examined, the question of once again recalling him and cross examining him further does not at all raise. The petitioners have not given proper reasons as to why, the recall petition has to be allowed. The Court below has rightly exercised its discretion. Acting under Section 482 of CrPC, I do not find ground enough to interfere with the impugned order. This criminal original petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ias

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 I Additional District Court,
Thoothukudi.
2. The Inspector of Police,
Thoothukudi South Police Station,
Thoothukudi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



USK (21.12.2021) 3P 4C

WEB COPY

CrI.O.P(MD)No.19395 of 2021

Cr1.O.P (MD) No.19395 of 2021
08.12.2021