



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.19488 of 2021

and

Crl.M.P.(MD)No.10884 of 2021

WEB COPY

Anthonisamy

... Petitioner/Petitioner /
Sole Accused

Vs

The State
through the Inspector of Police,
Kalaiyarkovil Police Station,
Kalaiyarkovil, Sivagangai District.
(Crime No.331 of 2016)

... Respondent/Respondent/
Complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records and set aside the order dated 02.11.2021 passed in Crl.M.P.No.1370 of 2021 in S.C.No.123 of 2019 on the file of the Chief Judicial Magistrate Court, Sivagangai, Sivagangai District by allowing this Criminal Original Petition.

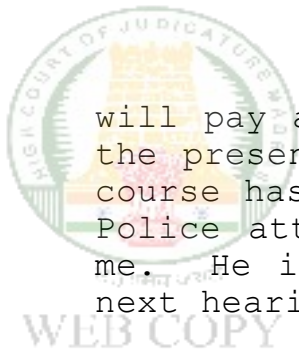
For Petitioner	: Mr.P.Krishnaveni
For Respondent	: Mr.T.Senthil Kumar Additional Public Prosecutor

ORDER

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

2. The petitioner is facing trial in S.C.No.123 of 2019 on the file of the Chief Judicial Magistrate, Sivagangai. P.W.1 to P.W.6 were examined in chief on 27.01.2020. The petitioner failed to cross examine the witnesses. Thereafter, Crl.M.P.No.1370 of 2020 was filed for recall and cross examination. The Court below by order dated 02.11.2021 dismissed the said Crl.M.P.No.1370 of 2020. Challenging the same, this Criminal Original Petition has been filed.

3. I must observe at the very out set that the approach adopted by the Chief Judicial Magistrate, Sivagangai is absolutely correct and justified. This Criminal Original Petition deserves a summary dismissal. However, adopting an indulgent approach and taking note of the plea putforth by the learned counsel for the petitioner that if the witnesses are not recalled for the purpose of cross examination, the petitioners would suffer irreparable hardship, I direct that the petitioner



will pay a sum of Rs.2,000/- to each of the witnesses directly in the presence of the presiding Judge as cost. The petitioner of-course has to pay the usual batta and process fee also. The SI of Police attached to Kalaiyarkovil Police Station is present before me. He is directed to cause production of P.W.1 to P.W.6 on the next hearing date ie., on 14.12.2021.

4. The petitioner's counsel gives an undertaking that all the six witnesses will be cross examined on the same date and that cross-examination will not spill over to any other date. It is of-course open to the court below to defer or adjourn the proceedings subject to its convenience. The cross-examination of the witnesses will not be deferred on account of the petitioner.

5. With this direction, the order impugned in this petition is set aside. This Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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 Chief Judicial Magistrate, Sivagangai, Sivagangai District.

2.The Inspector of Police,
Kalaiyarkovil Police Station,
Kalaiyarkovil, Sivagangai District.

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

+1 CC to M/s.P.KRISHNAVENI, Advocate (SR-37965[F] dated 09/12/2021)

Crl.O.P(MD)No.19488 of 2021
09.12.2021

USK (10.12.2021) 2P 5C

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