



WEB COPY



Crl.OP.No.383 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.383 of 2022

and

Crl.MP.No.121 of 2022

Thangaraj

... Petitioner

Vs.

State rep. by
Inspector of Police,
Kondaalampatti Police Station,
Salem District

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crl.MP.No.460 of 2021 in SC.No.340/2018 on the file of the III Additional District Judge, Salem and set aside the order of the III Additional District Judge, Salem dated 24.11.2021 in Crl.MP.No.460 of 2021 in SC.No.340/2018 and allow the criminal original petition.

For Petitioner	: Mr.T.K.Ravikumar
For Respondent	: Mr.E.Raj Thilak Additional Public Prosecutor



Crl.OP.No.383 of 2022

WEB COPY

ORDER

This petition has been filed to set aside the order passed by the learned III Additional District Judge, Salem in Crl.MP.No.460 of 2021 in SC.No.340/2018 dated 24.11.2021, thereby, dismissing the petition filed under the Section 91 of Cr.P.C.

2. The petitioner is arrayed as 5th accused in SC.No.340 of 2018 for the offences punishable under Sections 4, 5, 6 of Explosives Substance Act, 1908, Section 471 r/w 420 r/w 511 of IPCs, so far, on the side of prosecution, 4 witnesses were examined in full. The above said 4 witnesses were already cross-examined by the defence side on the date of cross-examination itself. While so, new counsel entered appearance after the examination of PW1 to PW4 on 23.10.2021. At this juncture, the petitioner filed a petition to direct the respondent to produce the General Diary for the purpose of cross examination of the witnesses.

3. It is seen that already, the petitioner has cross-examined PWs.1 to 4 herein. Even before the cross examination of the witnesses, the



Crl.OP.No.383 of 2022

petitioner filed a discharge petition in Cr.MP.Nos.260 of 2019 and 638 of 2019. Against which, no appeal has been preferred by the petitioner. Therefore, the Court below dismissed the petition on the ground that the purpose of requirements of general diary for the petitioner's side is not at all mentioned in the petition. The petition has been filed only to delay the process.

4. The petitioner has also filed another petition under Section 311 of Cr.P.C seeking to recall of PW.1 to PW4 for the purpose of further cross examination. Infact, PW1 to PW4 were already cross examined by the petitioner. The petition has been filed only on the ground that new counsel came on record. The General Diary maintained by the respondent can be produced at the time of Investigation Officer's chief examination. Therefore, the order passed by the Court below is liable to be set aside.

5. Accordingly, this Criminal Original Petition stands allowed and the impugned order in Crl.M.P.No.460 of 2021 in SC.No.340 of 2018 on the file of the learned III Additional District Judge, Salem is hereby set



CrI.OP.No.383 of 2022

WEB COPY

aside. Further, the respondent is directed to produce the General Dairy which is maintainable by the respondent police in Cr.No.808 of 2013 while cross examination of the investigation officer. Consequently, connected miscellaneous petition is closed.

15.09.2022

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
Vv

To

1. The Additional District Judge-III,
Salem.
2. The Inspector of Police,
Kondaalampatti Police Station,
Salem District
3. The Public Prosecutor,
High Court, Madras.

G.K.ILANTHIRAIYAN, J.



WEB COPY



Crl.OP.No.383 of 2022

Vv

**Crl.O.P.No.383 of 2022
and
Crl.MP.No.121 of 2022**

15.09.2022