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Crl.O.P.Nos.3557 & 2628 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2022

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THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.Nos.3557 & 2628 of 2022
and Crl.M.P.No.1666 of 2022

Saravanan

... Petitioner in both Crl.O.P.s

Vs.

The Sub Inspector of Police,
Arachalur,
Erode.

... Respondent in both Crl.O.P.s

Prayer in Crl.O.P.No.3557 of 2022: Criminal Original Petition is filed under Section 482 Cr.P.C., pleaded to set aside the orders made in C.M.P.No.8011 of 2021 dated 11.10.2021 of C.C.No.818 of 2019, on the file of the Judicial Magistrate-II, Erode.

Prayer in Crl.O.P.No.2628 of 2022: Criminal Original Petition is filed under Section 482 Cr.P.C., pleaded to set aside the orders made in C.M.P.No.8010 of 2021 dated 11.10.2021 of C.C.No.818 of 2019, on the file of the Judicial Magistrate-II, Erode.



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In both Crl.O.P.s.,

For Petitioner : Mr.V.Balamurugan
For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

COMMON ORDER

These Criminal Original Petitions have been filed to set aside the orders passed by the learned Judicial Magistrate - II, Erode in C.M.P.Nos.8010 & 8011 of 2021 in C.C.No.818 of 2019 vide orders dated 11.10.2021.

2. It is seen that the petitioner had filed the petitions in C.M.P.Nos.8010 & 8011 of 2021 under Section 311 of Cr.P.C., in C.C.No.818 of 2019 to recall and cross examine PW2. The learned Judicial Magistrate - II, Erode had dismissed the petition merely on ground that the PW2 was already cross examined on 12.03.2021 and therefore, there is no need for cross examination PW2.

3. The contention of the learned counsel for the petitioner is that the important questions regarding the identity of certain materials which were recovered have not been examined in cross examination of PW2. Therefore, he



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seeks one more chance to cross examine PW2.

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4. In such view of the matter, without going into the merits, considering the charges under Arms Act, this Court is inclined to give one more chance to the petitioner to recall and cross examine the witness, on imposition of cost and terms.

5. The trial Court is directed to fix a date to recall PW2 for cross examination by issuing summons to him. The petitioner shall complete the cross examination of PW2 on the same date fixed by the trial Court and in the event of petitioner not cross examining PW2 on the date of his appearance, he will lose the further chance of cross examining PW2.

6. The petitioner shall deposit a sum of Rs.5000/- before the Trial Court and the Trial Court shall disburse the amount to PW2 on the date of his appearance.

N. SATHISH KUMAR, J.



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7. With the above directions, the orders passed by the learned Judicial Magistrate- II, Erode in C.M.P.Nos.8010 & 8011 of 2021 in C.C.No.818 of 2019 vide orders dated 11.10.2021 are set aside and the Criminal Original Petitions stand allowed. Consequently, the connected miscellaneous petition is closed.

06.07.2022

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Speaking Order/Non-speaking Order

Index :Yes/No

Internet:Yes/No

To

1. The Sub Inspector of Police,
Arachalur,
Erode.
2. The Public Prosecutor,
High Court of Madras.

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