



Crl.O.P.No.9407 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2022

CORAM:

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

Crl.O.P.No.9407 of 2022
and Crl.M.P.Nos.5487 & 5489 of 2022

Parthiban

... Petitioner

-Vs-

State represented by
The Inspector of Police,
Pudupettai Police Station,
Cuddalore District.
Crime No.432 of 2012

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to set aside the order dated 28.02.2022 in Crl.M.P.No.704 of 2021 in C.C.No.103 of 2013 on the file of the learned Judicial Magistrate No.II, Panruti and direct the trial Court to permit the petitioner to cross examine the PWs. 1,2,4 & 5.

For Petitioner : Mr.A.M.Rahamath Ali

For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor



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ORDER

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This Criminal Original Petition has been filed to set aside the order dated 28.02.2022 in Crl.M.P.No.704 of 2021 in C.C.No.103 of 2013 on the file of the learned Judicial Magistrate No.II, Panruti and direct the trial Court to permit the petitioner to cross examine the PWs. 1,2,4 & 5, thereby dismissing the petition filed under Section 311 of Cr.P.C.

2. Heard, Mr.A.M.Rahamath Ali, learned counsel appearing for the petitioner and Mr.E.Raj Thilak, learned Additional Public Prosecutor appearing for the respondent.

3. It is seen that the petitioner is a sole accused. There are totally 11 prosecution witnesses. On the side of the prosecution, they examined P.Ws 1 to 8. However, the petitioner failed to cross-examine all the prosecution witnesses. P.Ws 1 and 2 were examined in chief on 22.06.2015. P.W.3 was examined in chief on 29.09.2015 and P.Ws.4 and 5 were examined in chief on 14.12.2015. After a period of three years, the petitioner had filed a petition to recall P.Ws.1,2,4 and 5 and which was dismissed by the Court below. Subsequently, the prosecution



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examined P.Ws.6, 7 and 8 in chief on 04.01.2016, 22.01.2016 and 08.02.2016 respectively. After a period of five years, the petitioner again filed a petition to recall P.Ws 1 to 8. In fact, P.Ws. 6, 7 and 8 were already cross-examined by the petitioner. Therefore, the Court below rightly dismissed the petition to recall the prosecution witnesses. Since, it is nothing but a clear process of abuse of law, the petitioner filed a petition to recall the prosecution witnesses and the same was already dismissed by the Court below and again the petitioner filed a petition to recall the prosecution witnesses after a period of five years.

4. In view of the above, this Criminal Original Petition is partly allowed and the order dated 28.02.2022 passed in Crl.M.P.No.704 of 2021 in C.C.No.103 of 2013 by the Judicial Magistrate No.II, Panruti , is set aside in respect of P.W.1 alone. However, the petitioner did not cross-examine P.W.1, who is injured. Considering the above, the petitioner is permitted to cross-examine P.W.1 alone on payment of cost of Rs.5,000/- to P.W.1. It is also made clear that, if the petitioner fails to cross-examine P.W.1, on the date fixed by the Trial Court, the Trial



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Court is directed to proceed with the trial in accordance with law.

Consequently, connected miscellaneous petitions are closed.

13.09.2022

Internet: Yes/No

Index : Yes/No

Speaking/Non Speaking order
vsn

To

1. The Judicial Magistrate No.II,
Panruti .

2. The Inspector of Police,
Pudupettai Police Station,
Cuddalore District.

3. The Public Prosecutor,
High Court, Madras.

G.K.ILANTHIRAIYAN. J.



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