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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2022

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.9131 OF 2022

AND

CRL.M.P.NO.5306 OF 2022

Ilavarasi,
W/o. Muthu

...Petitioner

Versus

1.State rep. by its
The Inspector of Police,
All Women's Police Station,
Tirupathur.
(Crime No.7/2015)

2.Muthu,
S/o.Saravanan

3.Saravanan,
S/o.Subramani

4.Kala @ Kalaivani,
W/o. Saravanan

...Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the order dated 23.02.2022 and call for the entire records comprised in Crl.M.P. No.6714 of 2021 in C.C.No.130 of 2015 on the file of learned Judicial Magistrate Court No.II, Tirupathur, Vellore.

For Petitioner : Mr.M.Vimal Bobby Crimson

For Respondents : Mr.A.Gokulakrishnan,
Addl. Public Prosecutor
for R1

O R D E R

Challenging the order passed by learned Judicial Magistrate Court No.II, Tirupathur, Vellore dismissing the petition filed seeking for recalling the P.W.1 by the defacto complainant to adduce additional typed set, the present petition has been filed.



2. It is the contention of learned counsel that due to ailment, he is not able to establish certain facts in the earlier occasion and for his satisfaction, further evidence is required. This court is of the view that any matter, which introduces to fill up the lacuna in the prosecution case can be taken note of by the trial court while appreciating evidence. The mere introduction of certain facts ifso facto will not amount to prove the allegation. Admittedly, other side will also have a right of cross-examination to refute the allegation putforth by the petitioner.

3. In such view of the matter, in order to give one more opportunity, this petition is allowed and the order of lower court passed in Crl.M.P.No. 6714 of 2021 in C.C.No.130 of 2015 is set aside. The petitioner is directed to give evidence on the day fixed by the trial court and the cross-examination shall be completed within two or three days thereafter. If the petitioner does not avail the opportunity of adducing any further evidence on the day fixed by the trial court, he cannot have any right to adduce further evidence. However, considering the delay caused by the petitioner, this petition is allowed subject to payment of Rs.5000/- payable to the accused and the same shall be paid before the trial court. Thereafter, the trial court shall expedite the trial and dispose of the matter within a period of six months from the date of receipt of copy of this order. With the above direction, this Criminal Original Petition is allowed. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

rpp

To

- 1.The Judicial Magistrate No.II,
Tirupathur,
Vellore District.
- 2.(do through) The Chief Judicial Magistrate,
Vellore District.
- 3.The Inspector of Police,
All Women's Police Station,
Tirupathur.



4.The Public Prosecutor,
High Court, Madras.

+1cc to M/s.Vimal B. Crimson, Advocate Sr.No.34007

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CRL.O.P.No.9131 of 2022

EV(CO)
RVM(15/06/2022)