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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2022

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRL.O.P. NO.9871 OF 2022

K.R.Rajaram

...Petitioner

Versus

The State by the Inspector of Police,
Saibaba Colony Police Station,
Coimbatore District.
Crime No.703 of 2009.

...Respondent

PRAYER :

Criminal Original Petition filed under Section 482 of Criminal Procedure Code, pleaded to set aside the order dated 04.04.2022 passed by the Sessions Judge, Mahaleer Neethimandram, Coimbatore in CMP No.1606 of 2022 in S.C.No.63 of 2021.

For Petitioner : Mr.K.C.Karl Marx

For Respondent : Mr.Leonard Arul Joseph Selvam,
Government Advocate (crl.side)

O R D E R

This Criminal Original Petition has been filed to set aside the order dated 04.04.2022 passed by the Sessions Judge, Mahaleer Neethimandram, Coimbatore in CMP No.1606 of 2022 in S.C.No.63 of 2021 for cross examining PW1 to PW3.

2. Heard the learned counsel appearing for the petitioner and learned Government Advocate (crl.side) appearing for the respondent and perused the materials available on record.

3. It is stated that at the time of chief examination, the learned counsel appearing for the petitioner was unable to cross examine the witnesses PW1 to PW3 since he was affected by covid.



The reason assigned by the learned counsel is without any materials. The trial cannot be protracted for such reasons. As a matter of fact that recall the witnesses cannot be ordered once the Sessions trial is commenced, it has to be go on day to day basis and the same cannot be protracted at the instance of counsel on record or accused. Therefore, this Court is of the view that the reason assigned by the learned counsel has no merit.

4. However, considering the nature of crime and it attracts the punishment for upto 10 years, fair chance of cross examination cannot be defeated merely of lawyer's in action. Hence, this Court is of the view that one more final chance has to be given to cross examine the witnesses subject to the payment of cost of Rs.15,000/- payable before the Sessions Judge, Mahaleer Neethimandram, Coimbatore within a period of one week from the date of receipt of a copy of this Order. On such payment, the Trial Court shall fix specific date to summon PW1 to PW3 for cross examination. The cross examination shall be completed on the same day when the witnesses present before the Trial Court. In the event of the petitioner failed to cross examine the witnesses on the same day, he will lose the right of cross examining the witnesses. After the cross examination, the Trial Court shall proceed with and conclude the trial within a period of two months.

5. Accordingly, this Criminal Original Petition is allowed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

shk/rgi

To

1. The Sessions Judge,
Mahaleer Neethimandram,
Coimbatore
2. The State by the Inspector of Police,
Saibaba Colony Police Station,
Coimbatore District.



3. The Public Prosecutor
High Court, Madras.

+1cc to Mr.K.C.Karl Marx, Advocate, S.R.No.34296

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GPL(CO)
PM/23/06/2022