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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2022

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.11238 OF 2022

1. M.G.Nirmal Vasantha Rajan,
S/o. K.Manoharan
2. K.Manoharan,
S/o. Late Kuppusamy
3. M.Gunavathy,
W/o. K.Manoharan
4. M.G.Manju Dhivya Bharathi,
D/o. K.Manoharan

... Petitioners

Versus

State by
Inspector of Police,
W-27, All Women Police Station,
Vadapalani,
Chennai-600 026.
(Crime No.14 of 2016)

... Respondent

PRAYER :

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the dismissal order under Sec.311 Cr.P.C. petition in Crl.M.P.No.1458 of 2021 in C.C.No.37 of 2020 dated 12.04.2022 on the file of the Judicial Magistrate of Ambattur, Tiruvallur District.

For Petitioners	:	Mr.P.Thirumalai
For Respondent	:	Mr.A.Gokulakrishnan, Addl. Public Prosecutor



ORDER

This Criminal Original Petition has been filed to challenge the order passed by the learned Judicial Magistrate, Ambattur, dismissing the petition filed under Sec.311 of Cr.P.C. to recall P.W.1.

2. Though the learned Magistrate had passed such an order, taking note the conduct of petitioners for not cross-examining the witnesses from the year 2019, and such conduct was already deprecated by this Court in many cases, in order to give an opportunity, this Court is of the view that one more chance is to be given to the petitioners. Accordingly, the order rejecting the petition to recall P.W.1 in Crl.M.P.No.1458 of 2021 in C.C.No.37 of 2020 on the file of learned Judicial Magistrate, Ambattur is set aside subject to payment of costs of Rs.5,000/- payable to Chief Justice Relief Fund within a week from the date of receipt of copy of this order. On payment of costs, the receipt shall be produced before the trial court and the trial court shall issue summons to P.W.1 and cross-examination of P.W.1 shall be done on the same day and thereafter, the trial court shall dispose of the matter within a period of four months. With the above direction, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rpp

To

1. The Judicial Magistrate, Ambattur.
2. The Inspector of Police,
W-27, All Women Police Station,
Vadapalani,
Chennai-600 026.
3. The Public Prosecutor,
High Court, Madras.



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