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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2022

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.No.13676 of 2022 and
CRL.M.P.Nos.7312 & 7313 of 2022

C.Thulsi

... Petitioner/Accused 1

Versus

State rep by its,
The Inspector of Police,
G-7, Achirupakkam Police Station,
Kancheepuram District.
Crime No.114/2019.

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set-aside the order dated 06.06.2022 and call for the entire records comprised in Crl.M.P.No.1082 of 2022 in C.C.No.71 of 2020 made by the learned Judicial Magistrate at Maduranthagam Kancheepuram District.

For Petitioner : Mr.M.Vimal Bobby Crimson

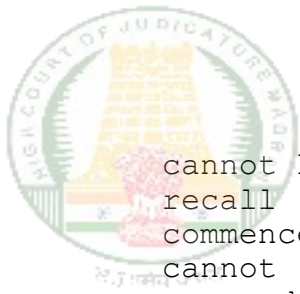
For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate, Crl.Side

ORDER

This Criminal Original Petition has been filed to set aside the order, dated 06.06.2022, made in Crl.M.P.No.1082 of 2022 in C.C.No.71 of 2020 passed by the learned Judicial Magistrate No.II, Madhuranthakam/trial Court.

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

3.It is stated that the previous counsel has not cross examined PW1 in detail at the relevant point of time and now, the petitioner has engaged new counsel to cross examine PW1 and to conduct the trial. The reason assigned by the learned counsel for the petitioner is without any materials. The trial



cannot be protracted for such reasons. As a matter of fact that recall the witness cannot be ordered once the 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, one more chance for cross examination of PW1 may be given to be petitioner. Hence, this Court is of the view that one more final chance has to be given to cross examine PW1 subject to the payment of cost of Rs.3,000/- (Rupees three thousand only) payable to PW1 before the trial Court, 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 for cross examination. The cross examination of PW1 shall be completed on the same day when PW1 present before the trial Court. In the event of the petitioner failed to cross examine PW1 on the same day, he will lose the right of cross examination of PW1. After the cross examination, the trial Court shall proceed with the trial on day to day basis.

5.Accordingly, this Criminal Original Petition is allowed and as a sequel, the order, dated 06.06.2022, made in CrI.M.P.No.1082 of 2022 in C.C.No.71 of 2020 passed by the learned Judicial Magistrate No.II, Madhuranthakam is set aside. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

//True copy//

Sub Assistant Registrar

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To

- 1.The Judicial Magistrate Court No.II,
Madhuranthakam.
2. -do-through Chief Judicial Magistrate,
Kancheepuram.
- 3.The Inspector of Police,
G-7, Achirupakkam Police Station,
Kancheepuram District.



4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Vimal Bobby Crimson, Advocate SR.No.35629

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CRL.O.P.No.13676 of 2022

CA(CO)
GMY(30/06/2022)