



Crl.O.P.No.25296 of 2022

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2022

CORAM:

THE HONOURABLE MR. JUSTICE **V.SIVAGNANAM**

Crl.O.P.No.25296 of 2022 and
Crl.M.P.No.15743 of 2022

Ilavarasan

... Petitioner

Vs.

The State rep. by the Inspector of Police,
District Crime Branch, Thiruvannamalai.

.. Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the order passed by the learned Judicial Magistrate, Thiruvannamalai in Crl.M.P.No.304/2022 in C.C.No.176/2018 and thereby, permit the petitioner to cross examine the prosecution witnesses 1 to 13.

For Petitioner : Mr.J.Suresh

For Respondent : E. Raj Thilak, Additional Public Prosecutor



Crl.O.P.No.25296 of 2022

ORDER

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This Criminal Original Petition has been filed to set aside the order passed by the learned Judicial Magistrate, Thiruvannamalai in Crl.M.P.No.304/2022 in C.C.No.176/2018 and thereby, permit the petitioner to cross examine the prosecution witnesses 1 to 13.

2. The petitioner herein is the accused in the above C.C.No.176 of 2018 before the Trial Court and he was charged for the offences punishable under Sections 465, 467, 468, 471, 477-A and 420 IPC r/w 65, 66 of Information Technology Act, 2000. In that case, Pw1 to Pw13 were examined on the side of the prosecution, however, at the time of examination, the petitioner was not able to cross examine them. Therefore, he filed a petition in Crl.M.P.No.304 of 2022 to permit the petitioner to cross examine the prosecution witnesses, however, above petition was dismissed by the Trial Court vide order dated 22.03.2022 and the same is impugned herein.

3. The learned counsel for the petitioner submitted that one more opportunity has to be given to the petitioner to cross examine the prosecution



Crl.O.P.No.25296 of 2022

witnesses to meet the prosecution case and to prove the defense side and hence, the impugned order is liable to be set aside and the petitioner may be permitted to cross examine the prosecution witnesses.

4. The learned Additional Public Prosecutor submitted that in the above case, totally 13 witnesses have been examined on the prosecution side and despite sufficient opportunities have been given to the petitioner, he has not availed the same. He further submitted that, now the case is posted for examination of Investigating Officer.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and I have perused the materials on record.

6. Admittedly, on the side of the prosecution PW1 to PW13 were examined. A perusal of the records shows that PW1 and PW2 were examined in chief on 20.06.2014; PW3 to PW6 were examined in chief on 07.06.2019; PW7 to PW12 were examined in Chief on 01.07.2019; and PW13 to PW15



Crl.O.P.No.25296 of 2022

were examined in Chief on 26.07.2019. For all these days, the accused/ petitioner has not cross examined the witnesses. Though the petitioner has failed to cross examine the witnesses, and has not assigned any valid reasons in the petition for not cross examining the witnesses, this Court is of the view that fair chance has to be given to the petitioner to prove the defence case. Further fair Trial also to be assured to the accused persons to put forth their crucial points through cross examination. Therefore, this Court is inclined to give one more chance to the petitioner to disprove the charges levelled against him and to place his evidence. As such, the impugned order is liable to be set aside.

7. Accordingly, the order passed in Crl.M.P.No.304/2022 in C.C.No.176/2018 by the learned Judicial Magistrate, Thiruvannamalai dated 22.03.2022 is hereby set aside. The learned Trial Judge is directed to recall the PW1 to PW13 and the petitioner/ accused is directed to cross examine them on the same day, without getting any further adjournments. Further, the petitioner is directed to pay “ Day Costs” to the witnesses.



Crl.O.P.No.25296 of 2022

8. With the above direction, this Criminal Original Petition is allowed.

Consequently, connected miscellaneous petition is closed.

19.10.2022

Index: Yes/No

mst

To:

1. The Judicial Magistrate,
Thiruvannamalai.
2. The Inspector of Police,
District Crime Branch, Thiruvannamalai
3. The Public Prosecutor,
Madras High Court.



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Crl.O.P.No.25296 of 2022

V.SIVAGNANAM, J.

mst

Crl.O.P. No.25296 of 2022

19.10.2022