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Crl.O.P.No.27109 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2022

CORAM:

THE HONOURABLE MS JUSTICE R.N.MANJULA

Crl.O.P.No.27109 of 2022

Vijay

... Petitioner

Vs.

The State rep. by
the Inspector of Police,
Kaveripattinam Police Station,
Krishnagiri District.

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the order of dismissal made in Crl.M.P.No.5218 of 2022, dated 27.07.2022 by the learned Judicial Magistrate Court-I, Krishnagiri, dismissing the petition for re-call the witnesses for cross examination and set aside the same by allowing th above criminal Original Petition.

For Petitioner : Mr.D.Arun

For Respondent : Mr.S.Santhosh,
Government Advocate (Crl. Side)



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ORDER

This Criminal Original Petition has been filed to quash the order made in Crl.M.P.No.5218 of 2022, dated 27.07.2022 passed by the learned Judicial Magistrate Court No-I, Krishnagiri.

2. The petitioner who is the sole accused in C.C.No.150 of 2018, has filed a petition under Section 311 of Cr.P.C., to recall PW1 to PW5 for cross examination. The said petition was dismissed on 27.07.2022 by the learned Judicial Magistrate I, Krishnagiri. Aggrieved over the said order, this Criminal Original Petition has been preferred by the petitioner.

3. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent.

4. The learned counsel for the petitioner would submit that an opportunity may be given by fixing a date for cross examination.



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5. The learned Government Advocate (Crl. Side) would submit that the petitioner is not co-operating with the Court for early disposal; the petitioner has taken his own time and filed the petition under 311 of Cr.P.C after a lapse of three years.

6. On perusal of the impugned order, it is seen that the chief examination of PW1 to PW5 has been done as early as on 24.07.2019 and thereafter the chief examination of PW6 to PW10 was also been done. Even PW6 to PW10 were not been cross examined by the petitioner. However, the petitioner seeks to cross examine the witnesses P.W.1 to P.W5 only. Keeping quite for three years, when the matter was posted for 313 of Cr.P.C questioning, the petitioner has come out with the petition under 311 of Cr.P.C., to recall PW1 to PW5 for cross examination. Taking into consideration of the lethargy on the part of the petitioner, the learned trial Judge had chosen to dismiss the petition.

7. However, without cross examining the witnesses, it is difficult to conclude the proceedings effectively. Hence, I feel it is appropriate to grant



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an opportunity to cross examine the witnesses P.W.1 to P.W5, but on the following conditions:

- i. the petitioner is directed to pay a cost of Rs.1,000/- (Rupees One thousand only) to each of the witnesses PW1 to PW5 and deposit the same in advance in the Court;
- ii. on receipt of payment of the said amount, the learned trial Judge shall summon the witnesses by fixing a date;
- iii. the petitioner shall cross examine the witnesses P.W.1 to P.W5 on the same day without making them to wait for long in the Court corridors;
- iv. failure on the part of the petitioner to comply the above conditions, will deprive him from getting the benefit of this order.
- v. When PW1 to PW5 present for cross examination, the learned trial Judge shall disburse the said cost to them directly.

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

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vum

Index:yes/No

Speaking Order / Non speaking order

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To

1. The Inspector of Police,
Kaveripattinam Police Station,
Krishnagiri District.
2. The Public Prosecutor,
Madras High Court,
Chennai.



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R.N.MANJULA,J.

vum

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