



Crl.O.P.No.27279 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.27279 of 2022**

B.Ramachandran

... Petitioner

Vs.

The State rep. by  
the Inspector of Police,  
Ramanatham Police Station,  
Tittagudi Taluk,  
Cuddalore District.  
Respondent

...

**Prayer:** Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to set aside the impugned order, dated 24.08.2022 in Crl.M.P.No.165 of 2022 passed by the learned Assistant Sessions Judge, Tittagudi.

For Petitioner : Mr.K.Jayabalan

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

**ORDER**

This Criminal Original Petition has been filed to quash the order, dated 24.08.2022 made in Crl.M.P.No.165 of 2022 passed by the learned Assistant Sessions Judge, Tittagudi.



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2. The petitioner who is the sole accused in S.C.No.406 of 2017, has filed a petition during the pendency of the trial, under Section 311 of Cr.P.C., to recall PW1, PW6 and PW9 for cross examination on the ground that the witnesses PW1, PW6 and PW9 were not cross examined effectively. The said petition was dismissed on 24.08.2022 by the learned Assistant Sessions Judge, Tittagudi. 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 the counsel who appearing on behalf of the petitioner before the trial Court, was appointed by the Taluk Legal Service Authority on 05.07.2022 and thereafter on perusal of records, he came to know that it is just and necessary to cross examine the said witnesses. Hence the delay occurred in filing the petition under Section 311 of Cr.P.C.. Therefore, the learned



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counsel prays to grant an opportunity in the interest of justice to cross examine the witnesses PW1, PW6 and PW9.

5. The learned Government Advocate (Crl. Side) would submit that the petitioner is not cooperating with the Court for early disposal; to delay the proceedings, the petition has been filed after a lapse of 2 ½ years from the date of examination of the PW1.

6. On perusal of the impugned order, dated 24.08.2022, it is seen that the chief examination of PW1 has been done as early as on 22.10.2019; PW6 and PW9 are the Government Officials and they were transferred to some other places and that they cannot be called once again; the petitioner had taken his own sweet time and filed the petition after a lapse of 2½ years. Taking into consideration of the lethargy on the part of the petitioner, the learned trial Judge had chosen to dismiss the petition. The petitioner who is able to engage a counsel through Legal Services Authority, can very well engage a private counsel and should have filed the petition on time.



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7. Though it is true that the conduct of the petitioner is condemnable, the interest of justice should also be served. Even an opportunity is given to the petitioner in the interest of justice, the petitioner ought to have utilised the same to the extent possible. It is to be noted that P.W.1 was cross examined by the accused himself. Taking into consideration of all these aspects, I feel it is appropriate to grant an opportunity to cross examine the witnesses PW1, PW6 and PW9, but on the following conditions:

- i. the petitioner is directed to pay a cost of Rs.500/- (Rupees Five Hundred only) to PW1 on his appearance before starting the cross examination;
- ii. the petitioner shall pay the travelling allowance permissible to PW6 and PW9 on their appearance before starting the cross examination;
- iii. on receipt of payment of the said amount, the learned trial Judge shall summon the witnesses by fixing a date;
- iv. the petitioner shall cross examine the witnesses PW1, PW6 and PW9 on the same day without making them to wait for long in the Court corridors;



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v. failure on the part of the petitioner to comply the above conditions,

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will deprive him from getting the benefit of this order.

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

**08.11.2022**

vum

Index:yes/No

Speaking Order / Non speaking order

To

1. The Inspector of Police,  
Ramanatham Police Station,  
Tittagudi Taluk,  
Cuddalore District.

2. The Public Prosecutor,  
Madras High Court,  
Chennai.



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**R.N.MANJULA,J.**

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