



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.02.2022

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.1977 of 2022
and
Crl.M.P. (MD)No.1442 of 2022

Anand @ Arul Anan ... Petitioner/Petitioner/Accused
Vs.

The State Rep. by
The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
In Crime No.52 of 2013 ... Respondent/Respondent/Complainant

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to set aside the order made in Cr.M.P.No.528 of 2021 in S.C.No.164 of 2018 dated 05.10.2021 passed by the learned Sessions Fast Track Mahila Court, Kanniyakumari at Nagercoil.

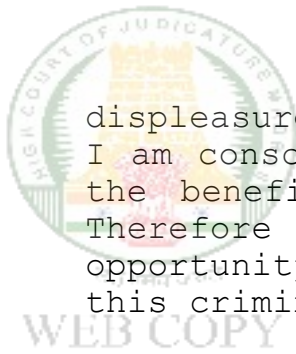
For Petitioner : Mr.R.Aravind Raj
For Respondent : Mr.M.Sakthi Kumar
Govt. Advocate (Crl. Side)

O R D E R

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

2.The petitioner is facing trial in S.C.No.164 of 2018 on the file of the Sessions Court/Fast Track Mahila Court, Kanniyakumari at Nagercoil. P.W.1 to P.W.3 were examined in chief on 26.08.2021. They were not cross examined. Therefore, Cr.M.P.No.528 of 2021 was filed under Section 311 of Cr.P.C. for recalling them. The said miscellaneous petition was dismissed by the trial Court on 05.10.2021. Challenging the same, this petition has been filed.

3.The reasons given by the learned Sessions Judge are perfectly justified. When the trial has commenced and the witnesses have been examined in chief, it is the duty of the defence counsel to get along with the cross examination immediately. By not doing so, inconvenience has been caused both the Court and the witnesses. Therefore, the learned Trial Judge is justified in expressing



displeasure over the conduct of the defence. But at the same time, I am conscious that if the petitioner undergoes the trial without the benefit of cross examination, his fate is literally doomed. Therefore in the interest of justice and to give one more opportunity, the order impugned in this proceedings is set aside and this criminal original petition is allowed.

4.I am allowing this petition, in view of the submission made by the learned counsel for the petitioner that all the witnesses are very much available and that apart, from the usual process fee charges and patta, he would deposit a sum of Rs.6,000/- (Rs.2,000/- per witness) to the credit of the case. The Court below shall disburse the said amount of Rs.2,000/- to each of the witnesses, when they appear again. It is further directed that the cross examination of the witnesses will have to be conducted and it should not be allowed to spill over.

5.With this direction, the Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

sjj

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The Judge,
Sessions Fast Track Mahila Court,
Kanniyakumari at Nagercoil
- 2.The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

CrI.O.P(MD)No.1977 of 2022

02.02.2022

MGJ(07.02.2022) 2P 4C

<https://hcservices.ecourts.gov.in/hcservices/>