



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.04.2022

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD)No.6330 of 2022

and

Crl.M.P (MD) No.4395 of 2022

1.Karuppaiah
2.Selvam
3.Ramanathan
4.Sabapathi
5.Palani @ Palaniappan
6.Raj @ Veerappan
7.Senthil
8.Veerakumar
9.Karuppaiah
10.Pitchaikannu
11.Mariyappan
12.Alagappan
13.Raman
14.Alaguraj

... Petitioners

Vs.

The State Rep. by
The Inspector of Police,
Keelasevalpatti Police Station,
Sivagangai District.
(Crime No.57/2014)

... Respondent

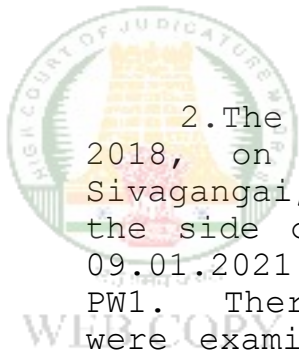
Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records of the learned Chief Judicial Magistrate, Sivagangai in Cr.M.P NO. 3799 of 2021 in S.C No. 172/2018 and set aside the order dated 18.11.2021

For Petitioners : Mr.S.Mahendrapathy

For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor
(Criminal side)
for R1

ORDER

This Criminal Original Petition has been filed to set aside the impugned order dated 18.11.2021, passed in Cr.M.P NO. 3799 of 2021 in S.C No. 172 of 2018, by the learned Chief Judicial Magistrate, Sivagangai, thereby, dismissing the petition filed under Section 311 of Cr.P.C.



2.The petitioners are A1 to A11, A13 to A15 in S.C.No.172 of 2018, on the file of the learned Chief Judicial Magistrate, Sivagangai, having been taken cognizance under Section 307 IPC. On the side of the prosecution, PW1's chief examination was done on 09.01.2021 and on that day, the petitioners failed to cross examine PW1. Thereafter, the other prosecution witnesses upto PW2 to PW7 were examined in full. However, the petitioners filed a petition under Section 311 Cr.P.C on 09.09.2021, to recall PW1.

3.Admittedly, the petitioners did not cross examine PW1, who is the injured witness. Though, the petitioners have cross examined the other prosecution witnesses, they may be given one more opportunity to cross examine PW1, since he is the injured witness.

4.In view of the above, the impugned order dated 18.11.2021, passed in Cr.M.P NO. 3799 of 2021 in S.C No. 172 of 2018, by the learned Chief Judicial Magistrate, Sivagangai, is hereby set aside. The petitioners are permitted to cross examine PW1, on payment of cost. It is also made clear that if the petitioners failed to cross examine PW1, on the day fixed by the trial Court, the trial Court is directed to proceed with the trial, in accordance with law. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PNM

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 Chief Judicial Magistrate,
Sivagangai
- 2.The Inspector of Police,
Keelasevalpatti Police Station,
Sivagangai District.



3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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