



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K. ILANTHIRAIYAN**

CrI.O.P.(MD) No.5453 of 2022

WEB COPY

Sasikumar

...Petitioner/Accused

Vs.

The Inspector of Police,
Manamadurai Police Station,
Sivagangai District.
(Crime No.111 of 2015)

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the order passed in Cr.M.P.No.5665/2021 dated 10/02/2022 by the Learned Chief Judicial Magistrate, Sivagangai, Sivagangai District and allow this Petition to recall the witnesses PW1 to PW9 for cross examination

For Petitioner : Mr.R.Balamuruganantham

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor

ORDER

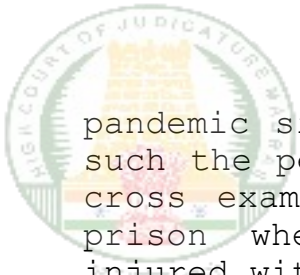
The Criminal Original Petition has been filed to set aside the order passed in Cr.M.P.No.5665/2021 dated 10/02/2022 by the learned Chief Judicial Magistrate, Sivagangai, Sivagangai District and allow this Petition to recall the witnesses PW1 to PW9 for cross examination.

2. The petitioner is the accused and he is charged for the offences under Sections 341,294(b),323 and 307 of IPC. On the side of the prosecution PW. 1 to PW.9 were examined on various dates. PW.5 was examined in chief on 04.09.2018 and PW.6 was examined in chief on 17.09.2018 and PW. 7 was examined in chief and cross on 08.11.2018 and PW.8 and PW.9 were examined in chief on 08.11.2018. However the petitioner has filed the petition to cross examine PW.1 to PW.9 in the year 2021.

3. The petition filed by the petitioner reveals that the counsel appearing on behalf of the petitioner was ill and he could not cross examine PW.1. He further submitted that after chief examination of PW.1 to PW.9 due to covid 19 pandemic situation he was not able to file the petition immediately , hence he seeks one more opportunity to cross examine the witnesses.

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

4. Admittedly the petitioner did not cross examine prosecution witness except PW.7. It can only be considered that due to Covid-19



pandemic situation there was no physical hearing of courts and as such the petitioner was unable to file the petition immediately for cross examining the witnesses. That apart the petitioner was in prison when PW.1 to PW6 were examined in chief and here PW.1 is the injured witness.

5. Considering the above, the petitioner may be given one more opportunity to cross examine PW.1 alone. In view of the above the order passed by the learned Chief Judicial Magistrate, Sivagangai is partly set aside and the criminal original petition is partly allowed. The petitioner is permitted to cross examine PW.1 alone with payment of necessary costs that may be fixed by the trial Court. The trial Court may fix the date for cross examination of PW.1 and if the petitioner fails to cross examine PW.1 on the date fixed by the trial Court, the trial Court is directed to proceed in accordance with law.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

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To

1. The Chief Judicial Magistrate, Sivagangai

2. The Inspector of Police,
Manamadurai Police Station,
Sivagangai District.

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

+1 CC to M/s.R.BALAMURUGANANTHAM, Advocate (SR-14073[F] dated
24/03/2022)

Cr1.O.P.(MD) No.5453 of 2022
24.03.2022

MGJ(05.04.2022) 2P 5C