



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.03.2022

CORAM:

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

Crl.O.P.(MD) No.5696 of 2022

WEB COPY

G.Harikrishnan

...Petitioner/Petitioner/Sole Accused

Vs.

State rep. by
The Inspector of Police,
Kadambur Police Station,
Thoothukudi District

...Respondent/Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records relating to the impugned order of the learned II Additional District and Sessions Judge, Thoothukudi in Crl.M.P.No.4945/2021 in S.C.No.144 of 2019 dated 12.01.2022 and set aside the same and allow this Criminal Original petition.

For Petitioner : Mr.R.J.Karthick

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

ORDER

This petition has been filed seeking direction to call for the records relating to the impugned order of the learned II Additional District and Sessions Judge, Thoothukudi in Crl.M.P.No.4945/2021 in S.C.No.144 of 2019 dated 12.01.2022 and set aside the same and allow this Criminal Original petition.

2.On perusal of the petition filed under Section 311 of Cr.P.C reveals that the petitioner has filed petition to cross examine PW.1,2,7 to 13 stating that he has engaged new counsel to further cross examine the prosecution witness. It is very important for the defence side case. Except this reason no other reason has been stated for further cross examination of PW.1,2,7 to 13. The Hon'ble Supreme Court of India and this Court have repeatedly held that change of counsel is not a reason for further cross examination of witnesses. That apart perusal of the record reveals that all the prosecution witness were duly cross examined by two counsel who appeared on behalf of the petitioner. It is a case of 302(2 counts) and 506(ii) of IPC. The petitioner is sole accused who killed his wife and paramour and he also threatened the injured and other witnesses. PW.1 and PW.2 were examined on 13.02.2020. PW.7 to PW.12 were also duly cross examined by the counsel for the accused in a very detailed manner. Infact PW 12 after examination in full died. Now the petitioner has filed this petition to recall the prosecution



witnesses mainly on the ground that he has engaged new counsel. Therefore the trial Court has rightly dismissed the petition filed by the petitioner for recall.

3. Hence this Court finds no illegality or infirmity in the order passed by the Court below.

4. In the result, the Criminal Original Petition stands dismissed . The trial Court is directed to complete the trial proceedings within a period of six months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (RTI)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1. The Inspector of Police,
Kadambur Police Station,
Thoothukudi District
2. The Additional Public Prosecutor
Madurai Bench of Madras High Court
3. The II Additional District and Sessions Judge,
Thoothukudi.

Cr1.O.P.(MD) No.5696 of 2022
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MGJ(12.04.2022) 2P 4C