



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.06.2022

CORAM:

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.O.P.(MD) No.10685 of 2022

WEB COPY

Murugalingam

... Petitioner/Sole Accused

Vs

The State represented by
The Sub Inspector of Police,
TIW-1, Police Station,
Madurai City
(Crime No. 131 of 2015).

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to call for the records in Cr.M.P. No. 2769 of 2020 in C.C.No. 213 of 2016, on the file of the learned Judicial Magistrate No. VI, Madurai, dated 27.11.2020 and set aside the same.

For Petitioner	: M/s.Ramu M,
For Respondent	: Mr.R.Suresh Kumar, Government Advocate (Crl.Side)

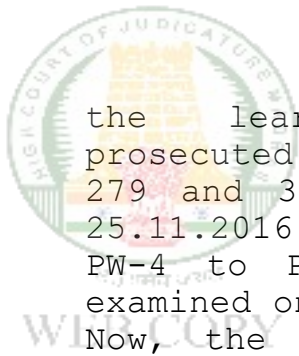
ORDER

This Criminal Original Petition has been filed seeking to set aside the order passed in Cr.M.P. No. 2769 of 2020, dated 27.11.2020, in C.C.No. 213 of 2016, on the file of the learned Judicial Magistrate No. VI, Madurai.

2.The learned Counsel appearing for the petitioner submitted that the petitioner/accused was prosecuted by the respondent police in C.C.No.213 of 2016, for the offences under Section 279, 304(A) of IPC, on the file of the learned Judicial Magistrate No. VI, Madurai. In that case, PW-1 to PW-9 were examined on various dates. But, they were not cross-examined by the petitioner/accused. Hence, he filed an application to recall PW-1 to PW-9 for cross-examination to establish his innocence and also prayed to allow this petition.

3.The learned Government Advocate (Crl.Side) appearing for the respondent police submitted that in this case, trial had been commenced in the year 2016 and PW-1 to PW-3 were examined on the same day and subsequently, PW-4 to PW-8 were examined. After that, the case was posted on 08.07.2022, for examination of Investigation Officer. Under these circumstances, recalling PW-1 to PW-9 is unwanted and pleaded to dismiss this petition.

4.Considering the matter in the light of the submissions made by both the Counsels and on a perusal of records, it reveals that the petitioner is an accused in C.C.No.213 of 2016, on the file of



the learned Judicial Magistrate No. VI, Madurai and he was prosecuted by the respondent police for the offences under Sections 279 and 304 of IPC. Further, the trial had been commenced on 25.11.2016. On that date, PW-1 to PW-3 were examined, subsequently, PW-4 to PW-8 were examined on 20.02.2017, PW-7 and PW-8 were examined on 13.03.2017 and finally, PW-9 was examined on 03.04.2017. Now, the case is posted on 08.07.2022, for examination of the Investigation Officer.

5.I have considered the submission of the learned Counsel appearing for the petitioner that in order to establish his innocence and defence through cross-examination of PW-1 to PW-9, the petitioner has to be given an opportunity to cross-examine the witnesses in the interest of justice. Even though the petitioner has not assigned any specific reason for cross-examination of the prosecution witnesses, to meet the ends of justice, an opportunity is given to the petitioner to cross-examine the above said prosecution witnesses.

6.Therefore, I am inclined to allow this criminal original petition with the following conditions:

(i)The petitioner has to cross-examine the witnesses PW-1 to PW-9 on the same day i.e., on 08.07.2022 and

(ii)The petitioner has to pay a day cost to the PW-1 to PW-9, which shall be calculated by the learned Judicial Magistrate No.VI, Madurai.

7.In view of the above, the learned Judicial Magistrate No. VI, Madurai, is directed to issue summons to PW-1 to PW-9 to be present on 08.07.2022 for cross-examination, receive the payment i.e., per day cost from the petitioner, pay the same to PW-1 to PW-9. Further, the learned Judicial Magistrate No. VI, Madurai, is directed to examine the Investigation Officer and dispose of the case on merits and in accordance with law.

8.With these directions, the order passed in Cr.M.P. No. 2769 of 2020, dated 27.11.2020, in C.C.No. 213 of 2016, on the file of the learned Judicial Magistrate No. VI, Madurai, is set aside. Accordingly, this criminal original petition stands allowed.

Sd/-

Assistant Registrar (C.O)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



To

1.The Judicial Magistrate No.VI,
Madurai.

2.The Sub Inspector of Police,
TIW-1, Police Station,
Madurai City.

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

+1 CC to M/s.M. RAMU, Advocate (SR-26267[F] dated 16/06/2022)

Crl.O.P. (MD) No.10685 of 2022

Date:16.06.2022

SA(27.06.2022) 3P 5C