



Crl.O.P.(MD) No.12387 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.07.2022

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THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P (MD) No.12387 of 2022

M.Muthusamy

... Petitioner

Vs

The State of Tamil Nadu
Represented by the
The Inspector of Police,
Kalugumalai Police Station,
Thoothukudi District.
Crime No.97 of 2018.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to issue a direction to set-aside the order passed in Cr.M.P.No.7952 of 2021 in C.C.No.179 of 2018, dated 22.10.2021 on the file of the learned Judicial Magistrate No.1, Kovilpatti.

For Petitioner : Mr.M.Maria Vinola
Advocate.

For Respondent : Mr.R.Suresh Kumar
Government Advocate (Crl.Side)



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ORDER

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This Criminal Original Petition has been filed challenging the impugned order passed in Cr.M.P.No.7952 of 2021 in C.C.No.179 of 2018, dated 22.10.2021 on the file of the learned Judicial Magistrate No.1, Kovilpatti.

2. The learned counsel for the petitioner submitted that the petitioner is not able to pay the cost imposed by the trial Court and seeking to set-aside the same.

3. The learned Government Advocate (Crl.Side) appearing for the respondent submitted that the prosecution witnesses P.W.1 to P.W.7 were examined and not cross-examined by the accused.

4. A perusal of the records reveals that the petitioner is an accused in C.C.No.179 of 2018, on the file of the learned Judicial Magistrate No.1, Kovilpatti. The petitioner is prosecuted by the respondent police for having committed the offences under Sections 354, 294(b) and 506(ii) I.P.C after



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filing the charge sheet, trial commenced and witnesses P.W.1 to P.W.7 were examined and at the time of chief examination the petitioner has not cross-examined the witnesses. For that purpose, the petitioner has filed a petition to recall the witnesses under Section 311 Cr.P.C in Cr.M.P.No.7952 of 2021 to recall the witnesses P.W.1 to 7 before the learned Judicial Magistrate No.I, Kovilpatti, which was allowed by the trial Judge on 22.10.2021 directing the petitioner to pay a sum of Rs.2500/- to P.W.1, Rs.2000/- each to P.W.2 to P.W.4 and Rs.500/- each to P.W.5 to P.W.7 on the date of their cross-examination. Aggrieved by this order, this Criminal Original Petition has been filed.

5. I have considered the submissions made by the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) for the respondent.

6. On perusal of the records, it is seen that the learned Judge observed that at the time of chief examination, the petitioner has not cross-examined the witnesses. Now, the case is pending for examination of defense witnesses. Even though sufficient opportunity has been given for cross-



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examination of witnesses, he has failed to cross-examine the witnesses. In order to give an opportunity to the petitioner, the said petition was allowed by the trial Court on payment of cost.

7. The learned counsel for the petitioner submitted that the petitioner is economically very poor man, but on verification, it is disclosed by the prosecution that the petitioner is functioning as a Secretary to Viduthalai Siruthai Party in Tuticorin Agricultural Team and he is very poor man and unable to pay cost, which cannot be acceptable. Therefore, I find that there is no merit to set aside the cost imposed by the trial Court.

8. Accordingly, this Criminal Original Petition is dismissed.

12.07.2022

Internet: Yes./No
Index: Yes/no
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- To
1. The Inspector of Police,
Kalugumalai Police Station,
Thoothukudi District.
 2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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V.SIVAGNANAM, J.

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ORDER IN
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