



CrI.O.P.(MD) No.16127 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.11.2022

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CrI.O.P (MD) No.16127 of 2022

and

CrI.M.P.(MD) No.10682 of 2022

V.Jothimurugan

...Petitioner

vs

**The Inspector of Police,
Nagamalai Pudhukottai Police Station,
Crime No.684 of 2017**

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to set aside the impugned order in Cr,M.P.No.864 of 2022 in S.C.No.580 of 2018 on the file of the learned Sessions Judge, Mahalir Neethimandram, Madurai District dated 12.08.2022.

For Petitioner : M/s.H.R.R.Shameera Begam

For Respondent : Mr.B.Nambiselvan

Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the order made in Cr,M.P.No.864 of 2022 in S.C.No.580 of 2018 on the file of the



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learned Sessions Judge, Mahalir Neethimandram, Madurai District dated 12.08.2022.

2. It is the submission of the learned Counsel for the Petitioner that the sessions trial was proceeded and the list witnesses 1 to 3 were examined as P.W1 to P.W3. At that time, the learned Counsel for the accused was unable to proceed with cross-examination, as he was in physical illness. Subsequently, the accused had filed a petition under Section 311 Cr.P.C in CrI.M.P.No.864 of 2022 to recall the witnesses.

3. The learned Sessions Judge, Mahalir Neethimandram, Madurai had dismissed the said petition regarding recalling of the victim/complainant, P.W1 and allowed the said petition to recall the witnesses, P.W2 and P.W3 with cost of Rs.2,000/- each payable to them on the date of their appearance, failing which the right of accused to cross examine P.W2 and P.W3 will be waived and also directing the accused to cross-examine the witnesses on the date of their appearance.



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4. The learned Additional Public Prosecutor for the Respondent vehemently objected to the line of argument of the learned Counsel for the Petitioner. He had invited the attention of this Court to the well reasoned order of the learned Sessions Judge, Mahalir Neethimandram, Madurai in paragraph Nos.6 to 9.

5. On perusal of the order, it is found that the case arose out of the attack by the accused, who is alleged to have been engaged as a Guest Lecturer. Due to his conduct with the women students in the College, the Head of the Department of Journalism had terminated his service as Guest Lecturer. On the date of the alleged occurrence, he is alleged to have stabbed her many times resulting her falling unconscious and due to timely medical intervention, her life was saved. For the offence under Section 307 IPC, the accused is facing trial before the learned Sessions Judge, Mahalir Neethimandram, Madurai. This is a fit case and glaring example of the indifference shown to the sufferings of the victim before the trial Court by the accused and the Counsels engaged by the accused.



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6. In the cases of this nature, the Hon'ble Supreme Court had deprecated the practice of recalling the witnesses in criminal cases leniently at the whims and fancies of the accused. The learned Sessions Judge, Mahalir Neethimandram, Madurai in his order had observed that when P.W1 was deposing evidence, she was trembling with nervousness recalling the incident in the presence of the accused.

7. As per the Constitutional provisions, the right to fair trial, the Criminal Courts have to record the evidence in the presence of the accused, which is considered fair principle, so that the accused is able to instruct his Counsel for effective cross-examination. At the sight of the accused, the victim had trembled due to recollection of the unfortunate incident. Therefore, the learned Additional Public Prosecutor had vehemently objected to recall P.W1, as she is still under treatment.

8. In the light of the above, the submission of the learned Counsel for the Petitioner that by invoking the extraordinary powers of this Court under Section 482 Cr.P.C. is found to be misconceived. It is to be noted that the



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principles of fair trial and speedy trial to the citizens of this country guaranteed by the Constitution of India are misused as the freedom guaranteed to the accused facing criminal trials ignoring the pain and sufferings of the victim of the crime. This is the glaring example of the same.

9. In the result, this Criminal Original Petition is dismissed, in the light of the ***Vinod Kumar Vs. State of Punjab*** reported in ***CDJ 2015 SC 115***. Consequently, connected Miscellaneous Petition is closed.

Internet:Yes/No

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Index:Yes/No

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To

- 1.The Sessions Judge,
Mahalir Neethimandram,
Madurai District.
- 2.The Inspector of Police,
Nagamalai Pudhukottai Police Station,
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

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