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Crl.O.P.(MD)No.21862 of 2022



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **12.12.2022**

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGO VAN**

Crl.O.P.(MD)No.21862 of 2022

Muniyandi

... Petitioner / Petitioner /
Sole Accused

Vs.

State, represented by its
The Inspector of Police,
Poovanthi Police Station,
Sivagangai District.
(Crime No.29 of 2017)

... Respondent / Respondent /
Defacto Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in Crl.M.P.No.9307 of 2022 in C.C.No.89 of 2017 on the file of the Judicial Magistrate No.II, Sivagangai, dated 23.11.2022, and set aside the same.

For Petitioner : Mr. Rameshkumar.D

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



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ORDER

This petition has been filed to call for the records in Crl.M.P.No. 9307 of 2022 in C.C.No.89 of 2017 on the file of the Judicial Magistrate No.II, Sivagangai, dated 23.11.2022, and set aside the same.

2. The petitioner is facing charges under Section 378 of IPC before the trial Court in C.C.No.89 of 2017. After commencement of the trial, the prosecution has examined P.W.1 to P.W.12. P.W.1 to P.W.3 were chief examined on 09.11.2017, P.W.4 to P.W.9 were examined in chief on 19.08.2019 and P.W.12 was chief examined on 08.11.2022. Though sufficient opportunities were given by the trial Court, P.W.1 to P.W.9 and P.W.12 were not cross examined by the petitioner.

3. The learned counsel for the petitioner would submit that since the petitioner's counsel was not feeling well on the date of the examination of witness, he was unable to cross examine the above said witnesses. So, he prayed to cross examine the witnesses and the same was dismissed on 23.11.2022.



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4. Even though, the reason that has been assigned by the petitioner is not acceptable, since the petitioner is facing serious charges under Section 379 of IPC, one more opportunity may be given to the petitioner to make his defence by cross examining the above said witnesses.

5. Considering the above said sole ground, there shall be direction to the petitioner that he must deposit Rs.1500/- as cost to each witnesses within a week from the date of receipt of copy of the order. After depositing the same, the trial Court may recall the witnesses in a scheduled manner. On the date scheduled, the petitioner must cross examine the above said witnesses, if fails in the schedule, then the order passed by the trial Court will automatically stand cancelled and no further right will be given to the petitioner to cross examine the witnesses.

6. With the above said direction, this Criminal Original Petition is allowed.

12.12.2022

Index : Yes/No
Internet : Yes/No
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Crl.O.P.(MD)No.21862 of 2022

G.ILANGOVAN. J.

indu

To

- 1.The Inspector of Police,
Poovanthi Police Station,
Sivagangai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P.(MD)No.21862 of 2022

12.12.2022