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Crl.O.P.(MD)No.21830 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.21830 of 2022

1. Venkataraman

2. Bala Krishnan

3. Amsaveni

4. Sasikala

... Petitioners No.1 to 4/ Petitioners
No.1 to 4 / Accused No.1 to 4

Vs.

The State, represented by
The Inspector of Police,
All Women Police Station,
Theni.
(Crime No.14/2014).

... Respondent / Respondent /
Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the order dated 14.10.2022 made in Crl.M.P.No.3270 of 2022 in C.C.No.113 of 2016 on the file of the Additional Mahila Court (Judicial Magistrate Level), Theni, and set aside the same as illegal and allowed the petition.



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

ORDER

This petition has been filed to call for the records relating to the order dated 14.10.2022 made in Crl.M.P.No.3270 of 2022 in C.C.No.113 of 2016 on the file of the Additional Mahila Court (Judicial Magistrate Level), Theni, and set aside the same as illegal and allowed the petition.

2. The petitioners are facing charges under Sections 498A, 294(b), 494, 506(1) of IPC and Section 4 of Dowry Prohibition Act, 1961, in C.C.No.113 of 2019 on the file of the Additional Mahila Court (Judicial Magistrate level), Theni, which is a matrimonial issue between the accused and the defacto complainant. After the trial is started, P.W.1 to P.W.13 has been examined before the trial Court. After lapse of several years, the Petition in Crl.M.P.No.3270 of 2022 has been filed by the petitioners herein, seeking recall of witnesses namely P.W.1 to P.W.13 and that was dismissed by the trial Court on 14.10.2022, stating that the reason assigned by the petitioner for recalling of witnesses is not sufficient and not acceptable, by relying upon the judgment of various



Courts.

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3. The learned Government Advocate (Crl.Side) would submit that the case was posted for defence side witnesses, at that stage, the above said petition came to be filed.

4. The purpose of cross examination has been more elaborately discussed in the judgment of **Jeyendra Vishnu Thakur Vs. State of Maharashtra reported in (2009) 7 SCC 104**. Since it is the matrimonial issue, serious charges have been framed against the petitioners. In the considered view that even though no reason has been assigned by the petitioners before the concerned trial Court, considering the fairness of the trial and in the interest of parties, there shall be direction to the petitioners on the condition that they must deposit Rs.1500/- each as cost 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 of schedule, the petitioners must cross examined the above said witnesses, if fail 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.



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5. In the above said direction, this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petition is closed.

12.12.2022

Index : Yes/No
Internet : Yes/No
indu

To

1. The Inspector of Police,
All Women Police Station,
Theni.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN. J.

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