



Crl.O.P.No.2896 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:10.02.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.2896 of 2023

and

Crl.M.P.No.1710 of 2023

Jesus @ Jesuraj

... Petitioner

Vs.

The Inspector of Police,
Kitchipalayam Police Station,
Salem District.

Crime No.45 of 2015

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to set-aside the order dated 21.11.2022 in Crl.M.P.No.512 of 2022 in S.C.No.180 of 2017 pending on the file of the III Additional District and Sessions Judge, Salem.

For Petitioner : Mr.M.Rakhi

For Respondent : Mr.S.Santhosh
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed to set-aside the order dated 21.11.2022 in Crl.M.P.No.512 of 2022 in S.C.No.180 of 2017 pending on the file of the III Additional District and Sessions Judge, Salem.

2. The learned counsel appearing for the petitioner submitted that,



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petitioner filed Crl.M.P.No.512 of 2022 in S.C.No.180 of 2017 to recall PW2 for cross-examination. Since, the petition was dismissed, present petition is filed. He further submitted that, if petitioner is not given opportunity for cross-examination of PW3, he would be greatly prejudiced.

3. The learned Government Advocate (Crl. Side) opposes the petition on the ground that there is a direction by this Court on 31.10.2022 to dispose the case within a period of 3 months from the date of receipt of copy of the order.

4. Considered the rival submissions and perused the records. The submission of the learned counsel for the petitioner is that PW3 was not cross-examined by the petitioner. It is seen from the order of the learned trial Judge in Cr.M.P.No.512 of 2022 that PW3 was cross-examined by other accused. Though, the reason stated by the petitioner for not cross-examining PW3 cannot be accepted, in the interest of Justice and to give an opportunity to the petitioner, this Court is of the considered view that this petition may be allowed on the following conditions:

The order passed by the learned III Additional District and Sessions Judge, Salem in Crl.M.P.No.512 of 2022 in S.C.No.180 of 2017



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is set aside and this Court allows the petition to recall PW1 on condition that the petitioner should pay a sum of Rs.5,000/- to the PW3. On such payment through Court, learned Judge is directed to fix a date for the purpose of cross-examination of PW3. On the date of appearance of PW3, petitioner should complete the cross-examination on the same day. It is made clear that failing to avail this opportunity, will not entitle the petitioner to again seek the remedy of cross -examination of PW3.

5. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

10.02.2023

Internet:Yes
Index:Yes/No
Sma



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G.CHANDRASEKHARAN, J.

sma

To:

1. The Inspector of Police,
Kitchipalayam Police Station,
Salem District.
2. The Public Prosecutor,
High Court of Madras.

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