



Crl.O.P.No.2853 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.2853 of 2023

Savariappan

... Petitioner

Vs.

The Sub-Inspector of Police,
N2 Traffic Investigation Wing,
Kasimedu Police Station,
Chennai - 13.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., pleaded to set aside the order in Crl.M.P.No.8133 of 2022 in C.C.No.617 of 2021 dated 13.07.2022 passed by the learned III Metropolitan Magistrate, George Town, Chennai and allow recall of PW4.

For Petitioner : Mr.J.Franklin

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



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ORDER

This Criminal Original Petition has been filed seeking to set aside the order in Crl.M.P.No.8133 of 2022 in C.C.No.617 of 2021 dated 13.07.2022 passed by the learned III Metropolitan Magistrate, George Town, Chennai and allow recall of PW4.

2. Learned counsel appearing for the petitioner submitted that the petitioner filed a petition in Crl.M.P.No.8133 of 2022 on the file of the learned III Metropolitan Magistrate, George Town, Chennai for recalling PW1 to PW4. The learned Magistrate allowed the petition in part, that is, allowed the petition to recall PW2 and PW3 and dismissed for recalling PW1 & PW4. Challenging the said order, the petitioner has filed the present petition.

3. Learned Government Advocate (Crl.Side) submitted that the petition to recall PW1 & PW4 was dismissed for the reason that the PW1, though is a complainant, not an eye witness and that no reason was stated in the petition to recall PW4, a witness for observation mahazar.

4. Considered rival submissions. Perused the records. During the course



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of submission, the learned counsel for the petitioner restricts his prayer to recall PW4 alone and he does not want to recall PW1. May be that no valid reason is given to recall PW4, the criminal trial requires that the witness should be cross examined.

5. In view of this matter, this Court set aside the order passed by the learned III Metropolitan Magistrate in Crl.M.P.No.8133 of 2022 dated 13.07.2022, in so far as the dismissal of petition to recall PW4 and allows the petition to recall PW4 on payment of cost of Rs.1000/- to PW4. The trial Court is directed to send summon to PW4 for the purpose of cross examination. The petitioner should complete the cross examination of PW4 on the same day of his appearance and should not seek adjournment.

6. With the above observation and direction, this Criminal Original Petition stands disposed of.

09.02.2023

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Index: Yes/No

Speaking/Non speaking order

Neutral Citation Case: Yes/No



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G.CHANDRASEKHARAN, J.
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To

1. The Sub-Inspector of Police,
N2 Traffic Investigation Wing,
Kasimedu Police Station,
Chennai - 13.
2. The Public Prosecutor,
High Court of Madras.

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