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Crl.O.P.No.2727 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.2727 of 2023 and
Crl.M.P.No.1596 of 2023

Saravanan ... Petitioner

Vs.

Shanthi ... Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the order passed in C.M.P.No.3675 of 2022 in C.C.No.104 of 2021 dated 23.12.2022 on the file of the learned Judicial Magistrate, Fast Track Court, (Magisterial level), Kallakurichi and permit the petitioner to recall P.W.1 and permit the petitioner to cross examine P.W.1.

For Petitioner : Mr.T.Muruganantham
For Respondents : No appearance

ORDER

This Criminal Original Petition has been filed to set aside the order passed in C.M.P.No.3675 of 2022 in C.C.No.104 of 2021 dated 23.12.2022 on the file of the learned Judicial Magistrate, Fast Track Court, (Magisterial level), Kallakurichi and permit the petitioner to recall P.W.1 and permit the



Crl.O.P.No.2727 of 2023

petitioner to cross examine P.W.1.

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2.The learned counsel for the petitioner submitted that petitioner filed a petition to recall P.W.1 for the purpose of further cross-examination and P.W.2 for cross-examination. The learned Judicial Magistrate, Fast Track Court, (Magisterial level), Kallakurichi, allowed the petition in part permitting the cross-examination of P.W.2, but dismissed the prayer for further cross-examination of P.W.1. Challenging that order, this petition is filed.

3.It is the submission of the learned counsel for the petitioner that certain important questions had been omitted to be asked to P.W.1. The learned counsel for the petitioner was coming from Gudiyatham and therefore that caused the omission, to put some questions.

4.Considered the submission of the learned counsel for the petitioner and perused the records.

5.The order of the learned Judicial Magistrate, Fast Track Court, (Magisterial level), Kallakurichi, reads that P.W.1 was examined on 28.03.2022 and the case was posted for cross-examination on 11.04.2022. On



Crl.O.P.No.2727 of 2023

11.04.2022 P.W.1 was present till 4.30 P.M., but the learned counsel for the accused failed to cross-examine P.W.1. Therefore, the evidence of P.W.1 was closed. As per the order passed in C.M.P.No.1093 of 2022, P.W.1 was cross-examined at length on 08.07.2022. Then P.W.2 was examined in chief on 25.07.2022. But P.W.2 was not cross-examined. Then the petitioner was absent for second questioning and therefore NBW was issued against accused on 11.08.2022. Petitioner surrendered before the Court on 12.12.2022 and NBW was recalled and the second questioning was completed. At this stage, the petition to recall P.W.1 for further cross-examination and P.W.2 for cross-examination was filed. The learned Judicial Magistrate, Fast Track Court, (Magisterial level), Kallakurichi, found that P.W.1 was cross-examined at length and therefore the prayer for recall of P.W.1 for the purpose of further cross-examination cannot be entertained. However, allowed the petition to recall of P.W.2 for the reason that P.W.2 was not at all cross-examined.

6.On going through the order, this Court finds that the learned Judicial Magistrate, Fast Track Court, (Magisterial level), Kallakurichi, has considered every aspect while considering the petition for recall of P.W.1 for further cross-examination. It is seen from the order that P.W.1 was cross-examined at



Crl.O.P.No.2727 of 2023

length. The cross-examination of witness should be completed on the same date of chief-examination. Cross-examination of a witness long after the examination of chief would affect the veracity of the evidence. P.W.1 was already cross examined in this case. Therefore, this Court finds there is no ground made out to take a different view of the matter, than the view taken by the learned Judicial Magistrate, Fast Track Court, (Magisterial level), Kallakurichi. Order of learned Judicial Magistrate, Fast Track Court, (Magisterial level), Kallakurichi, is confirmed.

7. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

14.02.2023
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Internet: Yes
Index: Yes/No
Speaking/Non speaking order



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Crl.O.P.No.2727 of 2023

To:

- 1.The Judicial Magistrate,
Fast Track Court, (Magisterial level),
Kallakurichi .
- 2.The Public Prosecutor,
High Court of Madras.



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Crl.O.P.No.2727 of 2023

G.CHANDRASEKHARAN, J.
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Crl.M.P.No.1596 of 2023

14.02.2023