



Crl.OP.No.2906 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.2906 of 2023

Sumiya Banu

... Petitioner

Vs.

State Rep by,
The Inspector of Police,
Palladam Police Station,
Tirupur District.
Respondent

...

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to call for records pertaining to the order passed in Crl.M.P.No.2 of 2023 in C.C.No.91 of 2022 on the file of Judicial Magistrate, Palladam, Tirupur District dated 04.01.2023 and set aside the same.

For Petitioner

: M/s. T.Balachandran

For Respondents

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



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ORDER

This Criminal Original Petition has been filed to call for records pertaining to the order passed in Crl.M.P.No.2 of 2023 in C.C.No.91 of 2022 on the file of Judicial Magistrate, Palladam, Tirupur District dated 04.01.2023 and set aside the same.

2. The learned counsel for the petitioner submitted that PW1 and PW2 could not be cross -examined for the reason that counsel for the petitioner was not preset on the date of examination. Thereafter, petitioner filed a petition under Section 311 of Cr.P.C to recall *PW1 and PW2* for the purpose of cross-examination in Crl.M.P.No.2 of 2023, but the same was dismissed on 04.01.2023. Challenging the dismissal order, present petition is filed.



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3. The learned Government Advocate (Crl. Side) strongly opposes this petition on the ground that the order of the learned Judicial Magistrate, Palladam in Crl.M.P.No.02 of 2023 clearly shows that PW1 and PW2 were cross-examined in full.

4. Considered the rival submissions and perused the records. It is seen from the order of the learned Judicial Magistrate, Palladam in Crl.M.P.No.02 of 2023 that PW1 and PW2 were cross-examined in full. Afterwards, PW2 was examined in additional chief and Ex.P2, P3 were marked. Thereafter, PW2 was not cross-examined. It is necessary that the accused should be given opportunity of cross-examination of PW2 alone. The order of the learned Judicial Magistrate, Palladam in Crl.M.P.No.02 of 2023 is partly set-aside in respect of PW2 alone.

5. Accordingly, this Criminal Original Petition is partly allowed on the following terms:

The learned Judge is directed to fix a date for the purpose of cross-



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examination of *PW2* with regard to additional documents marked as Ex.P2,

P3. It is made clear that failing to avail this opportunity, will not entitle the petitioner to again seek the remedy of cross -examination of PW2.

10.02.2023

Internet : Yes / No

Index : Yes / No

Speaking/Non speaking order

Sma

To.

1. The Inspector of Police,
Palladam Police Station,
Tirupur District.
2. The Public Prosecutor,
High Court of Madras.

G.CHANDRASEKHARAN,J.



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