



CrI.OP.No.3655 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

CrI.O.P.No.3655 of 2023

Samuel

... Petitioner

Vs.

Inspector of Police,
Thachampattu Police Station,
Tiruvannamalai

... Respondent

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the order dated 27.09.2022 in CrI.M.P.No.3013 of 2022 in CC.No.281 of 2020 on the file of the learned Judicial Magistrate I, At Tiruvannamalai.

For Petitioner : Mr.P.Jayachandran
For Respondent : Mr.S.Santhosh
Government Advocate (CrI side)

ORDER

This Criminal Original Petition has been filed to set aside the order dated 27.09.2022 in CrI.M.P.No.3013 of 2022 in CC.No.281 of 2020 on the file of



Crl.OP.No.3655 of 2023

the Judicial Magistrate I, At Tiruvannamalai.

WEB COPY

2.The learned counsel for the petitioner submitted that petitioner filed the aforesaid petition for recall of P.W.1 to P.W.7. P.W.1 to P.W.7 were examined in chief on 07.04.2022. On that day, the learned counsel for the petitioner was suffering from fever and therefore, he was not able to cross-examine P.W.1 to P.W.7. Subsequently, P.W.8 and P.W.9 were examined and they were cross-examined by the petitioner. Unless P.W.1 to P.W.7 are cross-examined, the petitioner would be seriously prejudiced. Without considering the merits in the petition, the learned Judicial Magistrate I, Tiruvannamalai, dismissed the petition.

3.The learned Government Advocate (Criminal side) submitted that P.W.1 to P.W.7 were examined in chief on 07.04.2022, and they were not cross-examined by the petitioner.

4.It is seen from the submission that P.W.1 to P.W.7 were examined in chief on 07.04.2022 and were not cross-examined. The reason for not cross-examining these witnesses is that the learned counsel appearing for the



CrI.OP.No.3655 of 2023

petitioner was not there and therefore could not cross-examine these witnesses.

Cross-examination of witness is a fundamental requirement in criminal justice system. Taking these fact into account and also with a view to give an opportunity to the petitioner, this Court is of the view that this petition can be allowed on payment of costs of Rs.500 to each witnesses. On such payment of costs, the learned Judicial Magistrate I, Tiruvannamalai, is directed to summon P.W.1 to P.W.7 for the purpose of cross-examination. On the date of appearance of these witnesses, petitioner should complete the cross-examination on the same day.

5. Accordingly, order dated 27.09.2022 in CrI.M.P.No.3013 of 2022 in CC.No.281 of 2020 passed by the learned Judicial Magistrate I, Tiruvannamalai, is set aside.

6. With the above observations and direction, the Criminal Original Petition is allowed.

20.02.2023

Index : Yes / No

Speaking / Non Speaking order

3/6



Crl.OP.No.3655 of 2023

To

1.The Judicial Magistrate I, At Tiruvannamalai.

2.Inspector of Police,
Thachampattu Police Station,
Tiruvannamalai

3.The Public Prosecutor,
High Court of Madras, Chennai.



WEB COPY



CrI.OP.No.3655 of 2023

G.CHANDRASEKHARAN,J.

ep

CrI.O.P.No.3655 of 2023



WEB COPY



Crl.OP.No.3655 of 2023

20.02.2023