



WEB COPY



1 of 4

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.5398 of 2023

Suresh (M/A-43)
S/o.Thangavel

.. Petitioner /Petitioner/ Accused

.Vs.

The State rep.by
Inspector of Police
Ramanatham Police Station
Cuddalore District.

..Respondent/Respondent/Complainant

Crime No.287 of 2016.

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crl.MP.No.129 of 2022 in S.C.No.197 of 2017, on the file of the Additional Sessions Judge, Thitagudi and set aside the order dated 02.01.2023 and given an opportunity to permit cross examine the recall witness PW.12.

For Petitioner : Mr.R.Sethuvarayar

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.side)

ORDER

This criminal original petition has been filed challenging the order passed by the Court below dismissing the application filed by the petitioner u/s.311 Cr.PC, to recall PW.12 for cross examination.



2. Heard Mr.R.Sethuvarayar, learned counsel for the petitioner and Mr.A.Gopinath, learned Government Advocate (Crl.side) for respondent.

3. The petitioner is facing trial before the Court below for offence u/s.451, 395 r/w.394 and 397 IPC. The prosecution examined PW.12 on 21.4.2022 and he is the investigation officer in this case. The learned counsel for the petitioner did not cross examine this witness. An application came to be filed before the Court below on 7.6.2022 u/s.311 to recall PW.12 for cross examination. This application was dismissed by the Court below by an order dated 2.1.2023 and the same has been put to challenge in this criminal original petition.

4. Taking into consideration the facts and circumstances of the case and the serious offences for which the petitioner is facing trial, this Court is inclined to give one last opportunity to recall PW.12 for cross examination. In view of the same, the order passed by the Court below in Crl.MP.No.129 of 2022, dated 2.1.2023, is hereby set aside.

5. This criminal original petition is disposed of in the following terms:

a. The Court below shall fix a date for the appearance of PW.12 and the petitioner shall cross examine PW.12 on the date of his appearance and the cross examination will be completed on the same day.

b) If for any reason, the petitioner fails to cross examine PW.12 on the date of appearance, the petitioner will lose his right to recall PW.12 in future.



3 of 4

c) The Court below is directed to dispose of the proceedings in Sessions

Case No.197 of 2017, within a period of three months from the date of receipt of copy of the order.

12.09.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
KP

To

1. Inspector of Police
Ramanatham Police Station
Cuddalore District.

2. Additional Sessions Judge,
Titagudi.

3. The Public Prosecutor
High Court, Madras.



WEB COPY



4 of 4

N. ANAND VENKATESH,, J.
kp

Crl.O.P No.5398 of 2023

12.09.2023