



WEB COPY



Crl.O.P.No.6963 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:29.03.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.6963 of 2023

1. Selvi
2. Suresh

... Petitioners

Vs.

The Inspector of Police,
District Crime Branch,
Tiruvannamalai District,
Tiruvannamalai.

... Respondent

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the order passed in Crl.M.P.No.1054 of 2022 in C.C.No.89 of 2021 dated 24.02.2023 passed by the learned Judicial Magistrate No.I, Tiruvannamalai.

For Petitioner : Mr.B.Jawahar

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

ORDER

This Criminal Original Petition has been filed to set aside the order passed in Crl.M.P.No.1054 of 2022 in C.C.No.89 of 2021 dated 24.02.2023 passed by the learned Judicial Magistrate No.I, Tiruvannamalai.



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2. The learned counsel for the petitioner submitted that, petitioner filed petition under Section 311 of Cr.P.C., to recall PW1 to PW7 for the purpose of further cross examination. The reason for not cross examining the witness was that, petitioner approached the Court for quashing the case. When the matter was pending, witnesses have been examined. Unless these witnesses are cross-examined, petitioner would be seriously prejudiced.

3. The learned Government Advocate (Crl. Side) submitted that, *PW 1 to 7* had not been cross-examined so far.

4. Considered the rival submissions and perused the records. This Court on going through the order of the learned Judicial Magistrate No.I, Tiruvannamalai in Crl.M.P.No.1054 of 2023 finds that, petitioner filed petition under Section 242(3) of Cr.P.C for deferring the cross-examination of *PW1 to PW5*. It appears that, even after examination of LW5 as PW5, petitioners failed to cross-examine PW5 and subsequently, PW1 to PW4 appeared before the Court for cross-examination but the petitioners failed to cross-examine PW1 to PW4 and further, petitioners also filed to cross-examine PW6 and PW7 on the date of their chief examination.



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5. This Court is of the considered view that, cross-examination of the witnesses is essentially required for eliciting the truth of the case. However, petitioner 's refusal or negligence to cross-examine PW1 to PW7 cannot be taken light. Therefore, this Court is of the view that PW1 to PW7 may be recalled subject to the payment of costs of Rs,5,000/- to each witnesses through Court. On such payment, learned Judicial Magistrate No.I, Tiruvannamalai is directed to recall PW1 to PW7 for the purpose of Cross Examination. It is made clear that, cross-examination should be conducted on the same day. Failing to avail the opportunity of cross-examination of these witnesses on the date of their appearance, will not entitle the petitioners to again seek the remedy of cross-examination of these witnesses.

6. With the above observations and directions, this Criminal Original Petition is disposed of.

29.03.2023

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G.CHANDRASEKHARAN,J.

sma

To,

1. Judicial Magistrate No.I, Tiruvannamalai
2. The Inspector of Police,
District Crime Branch,
Tiruvannamalai District,
Tiruvannamalai.
3. The Public Prosecutor,
High Court of Madras.

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