



Crl OP No.7128 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No. 7128 of 2023

&

Crl. M.P.No. 4503 of 2023

Subramanian

... Petitioner

Versus

The State Rep. by
Sub Inspector of Police
District Crime Branch,
Villupuram.

... Respondent

PRAYER : Criminal Original Petition has been filed under Section 482 of the Criminal Procedure Code, to call for the records and set aside the order dated 28.02.2023 made in Crl.R.P.No. 103 of 2022 passed by the learned Principal Session Judge, Villupuram, in confirming the order dated 31.05.2022 made in Cr.M.P.No. 2060 of 2021 passed by the learned Judicial Magistrate I, Ulundurpet.

For Petitioner : Mr. M.R.Jothimanian

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



Crl OP No.7128 of 2023

WEB COPY

ORDER

The petition challenges the order passed by the Principal Sessions Judge, Villupuram, dismissing the revision petition filed by the petitioner. The petitioner had filed a revision petition challenging the dismissal of his petition for recalling the evidences of P.W.2, P.W.4, P.W.5 and P.W.6. The learned Judicial Magistrate I, Ulundurpet had dismissed the petition on the ground that earlier a petition for recall was filed and allowed, however, the petitioner did not avail the opportunity. The revision Court found that the reasoning given by the Trial Court for dismissing the petition under Section 311 is correct and hence dismissed the revision.

2. The learned counsel for the petitioner would submit that an earlier opportunity was not availed of since the learned counsel who had appeared for the petitioner then cross examined contrary to the instructions of the petitioner. Hence, he prayed that the petitioner may be given one more opportunity to cross examine the above said witnesses.



WEB COPY



Crl OP No.7128 of 2023

3. The learned Government Advocate (Crl. Side) would submit that the petitioner did not avail of the earlier opportunity and this petition is only to protract the proceedings.

4.This Court finds that the petitioner had not availed of the earlier opportunity given to him to cross examine the above said witnesses on some pretext or the other. The learned Sessions Judge, Villupuram has elaborately considered the reasons and found that the petitioner is not entitled to recall the witnesses. This Court finds that the reasons given by the learned Judge cannot be faulted with.

5.However, this Court considering the nature of accusation in this case and in order to balance the right of the accused to cross-examine and the need for speedy disposal of the cases, is of the view that one last opportunity may be given to the petitioners to examine the witnesses on stringent terms and within a time frame.



Crl OP No.7128 of 2023

WEB COPY

6.The impugned order stands set aside on the condition that the petitioner shall deposit a sum of Rs.6,000/- on or before 10.04.2023 before the trial Court. He shall file a petition for recalling of the witnesses viz., P.W.2, P.W.4, P.W.5 and P.W.6 on or before 10.04.2023 by filing an advance hearing petition. The learned Magistrate may fix the date for cross-examination of the witnesses within 10 days thereafter. If for any reason, the cross-examination of the witnesses cannot be completed within the time fixed by the learned Magistrate, this order would stand cancelled automatically. Further, it is also needless to say that if the petitioner does not appear before the learned Magistrate and deposit Rs.4,500/- and file a petition for recalling of the witnesses on or before 10.04.2023 also, this order would be cancelled automatically. Each of the witnesses shall be paid Rs.1500/- on the date of their appearance from out of the money deposited by the petitioner.

7.Accordingly, this Criminal Original Petition stands allowed



Crl OP No.7128 of 2023

with the above observations. Consequently, the connected miscellaneous petition is closed.

31.03.2023

kan/ay

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

Note: Issue Order copy on 05.04.2023.

To

1. The Principal Session Judge,
Villupuram.

2. The Judicial Magistrate I,
Ulundurpet.



WEB COPY



Crl OP No.7128 of 2023

SUNDER MOHAN, J

kan/ay

Crl.O.P.No. 7128 of 2023



WEB COPY



Crl OP No.7128 of 2023

31.03.2023