



WEB COPY



Crl OP No.7299 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. 7299 of 2023

&

Crl. M.P.No. 4647 of 2023

G.Krishnaraj

... Petitioner

Versus

The State Rep by its
The Inspector of Police
Malliakarai Police Station,
Salem District.

... Respondents

PRAYER : Criminal Original Petition has been filed under Section 482 of the Criminal Procedure Code, to set aside the order passed in Crl.M.P.No. 1572 of 2022 in C.C.No.117 of 2018 on 15.11.2022 on the file of the Judicial Magistrate No.II, Attur consequently recall the prosecution witnesses P.W.1, P.W.3 and P.W.4 and allow the petitioner to cross examine them.

For Petitioner : Mr. T.Ganesan

For Respondent : Mr. S.Santhosh



Crl OP No.7299 of 2023

Government Advocate (Crl. Side)

ORDER

WEB COPY

The petition challenges the order passed in Crl.M.P.No.1572 of 2022 in C.C.No.117 of 2018, dismissing the petitioner's application filed under Section 311 of the Cr.P.C for recall of P.W.1, P.W.3 and P.W.4 in C.C.No.117 of 2018.

2. The learned counsel for the petitioner would submit that the witnesses have examined during the Covid period and thereafter he could not file a petition to recall the witnesses immediately and prayed that he may be given one more opportunity to examine the witnesses.

3. The learned Government Advocate (Crl. Side) submitted that the case is now posted for Judgement on 12.04.2023.

4.The order passed by the learned Magistrate stating that petitioners had not availed of the earlier opportunity given to cross-examine the witnesses cannot be faulted with.



WEB COPY



Crl OP No.7299 of 2023

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.

6.The impugned order stands set aside on the condition that the petitioner shall deposit a sum of Rs.4,500/- on or before 10.04.2023 before the trial Court. He shall file a petition for recalling of the witnesses viz., P.W.1, P.W.3 and P.W.4 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



Crl OP No.7299 of 2023

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 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

The Inspector of Police
Malliakarai Police Station,



Salem District.

WEB COPY



Crl OP No.7299 of 2023

SUNDER MOHAN, J

kan/ay

Crl.O.P.No. 7299 of 2023



WEB COPY



Crl OP No.7299 of 2023

31.03.2023