



Crl.O.P.No.7432 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 06.04.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.CHANDRASEKHARAN**

Crl.O.P.No.7432 of 2023

and

Crl.M.P.No.4733 of 2023

Thangavel

...Petitioner

Vs.

State represented by
The Inspector of Police,
Thevoor Police Station,
Salem District.
Crime No.67 of 2015

...Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 08.03.2023 passed in Crl.M.P.No.601 of 2022 in SC.No.166 of 2016 on the file of the IInd Additional District and Sessions Judge, Salem by allowing this petition.

For Petitioner : Mr.S.Siva Kumar

For Respondent : Mr.S.Santhosh

Government Advocate (Crl.Side)



Crl.O.P.No.7432 of 2023

ORDER

This Criminal Original Petition has been filed to set aside the order dated 08.03.2023 passed in Crl.M.P.No.601 of 2022 in SC.No.166 of 2016 on the file of the IInd Additional District and Sessions Judge, Salem by allowing this petition.

2. The learned counsel for the petitioner submitted that P.Ws.1 and 2 have not been cross examined by the petitioner for the reason that his counsel could not be present on the date of examination of P.W.1. The cross examination of P.W.2 could not be completed. Therefore, this petition.

3. The learned Government Advocate (Crl.side) opposed this petition on the ground that the witnesses cannot be repeatedly called for giving evidence.

4. Considered the rival submissions and perused the records.



Crl.O.P.No.7432 of 2023

WEB COPY

5. This Court finds from the order of the learned IInd Additional District and Sessions Judge, Salem, despite giving sufficient opportunities, the petitioner did not cross examine P.W.1. P.W.2 was sufficiently cross examined. This Court going through the depositions of P.Ws.1 and 2 found that P.W.1 was not cross examined by the petitioner. P.W.2 was sufficiently cross examined.

6. Therefore, with a view to give an opportunity to the petitioner to cross examine P.W.1, this Court modifies the order passed by the learned IInd Additional District and Sessions Judge, Salem in Crl.M.P.No.601 of 2022 in SC.No.166 of 2016 dated 08.03.2023 and allows the petition to recall P.W.1 for the purpose of cross examination on payment of costs.

7. Accordingly, the learned IInd Additional District and Sessions Judge, Salem, is directed to permit the cross examination of P.W.1, on payment of costs of Rs.5000/- (Rupees Five Thousand only) through the Court by the petitioner to P.W.1. P.W.1 should be cross examined on the



Crl.O.P.No.7432 of 2023

WEB COPY

same day when he appears before the Court. So far as P.W.2 is concerned, he was sufficiently cross examined by the petitioner. Therefore, the request for further cross examination of P.W.2 cannot be entertained. The dismissal of prayer seeking cross examination of P.W.2 is confirmed.

8. Accordingly, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous petition is closed.

06.04.2023

mn

Index: Yes/No

Speaking Order: Yes/No

G.CHANDRASEKHARAN.J.,



WEB COPY



Crl.O.P.No.7432 of 2023

mn

To

1. The IInd Additional District and Sessions Judge, Salem.
2. The Inspector of Police,
Thevoor Police Station,
Salem District.
3. The Public Prosecutor,
High Court of Madras.

Crl.O.P.No.7432 of 2023
and
Crl.M.P.No.4733 of 2023

06.04.2023