



WEB COPY



Crl.O.P.No.8039 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CrI.O.P.No.8039 of 2023

and

CrI.M.P.No.5093 of 2023

Santhosh Kumar

... Petitioner

Vs.

The State of Tamil Nadu
By Inspector of Police,
Thali Police Station,
Hosur,
Krishnagiri District.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code to set aside the order in CrI.M.P.No.458 of 2022 in S.C.No.35 of 2018 dated 10.01.2023 on the file of the Additional District and Sessions Judge, Hosur, Krishnagiri District.

For Petitioner : Mr.G.Mohammed Aseef

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



Crl.O.P.No.8039 of 2023

ORDER

WEB COPY

This Criminal Original Petition has been filed to set aside the order passed in Crl.M.P.No.458 of 2022 in S.C.No.35 of 2018 dated 10.01.2023 on the file of the Additional District and Sessions Judge, Hosur, Krishnagiri District and to permit the petitioner to cross examine P.W.14.

2. The learned counsel for the petitioner submitted that P.W.14 was examined in Chief on 25.07.2022. However, the petitioner's counsel could not cross examine the said witness as he was out of station. The other accused has cross examined the said witness.

3. The learned Sessions Judge dismissed his petition for recall the witness, on the ground that the other accused have comprehensively cross examined the witness and therefore, there was no necessity for the petitioner to cross examine P.W.14. However, this Court on a reading of the chief examination of P.W.14, finds that there is a reference to a confession recorded by P.W.14 in which the petitioner is said to have signed as a witness. It appears that the petitioner has been subsequently added as an accused. Therefore, it cannot be said that there is no necessity for the



Crl.O.P.No.8039 of 2023

petitioner to examine the said witness. Hence, the order passed by the learned Sessions Judge is set aside. However, the petitioner is permitted to recall the said P.W.14 subject to payment of cost of Rs.2,000/- .

4. The impugned order stands set aside on the condition that the petitioner shall deposit a sum of Rs.2,000/- on or before the next hearing date before the trial Court. He shall file a petition for recalling of the witness viz., P.W.14 on the next hearing date. The learned Magistrate may fix the date for cross-examination of the witness within 10 days thereafter. If for any reason, the cross examination of the witness 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.2,000/- and file a petition for recalling of the witness on or before the next hearing date, this order would stand cancelled automatically. The witness P.W.14 shall be paid Rs.2,000/- on the date of his / her appearance for cross examination from the money deposited by the petitioner



Crl.O.P.No.8039 of 2023

5. In view of the above, the Criminal Original Petition stands allowed. Consequently, the connected Miscellaneous Petition is closed.

12.04.2023

Index :Yes/No
Internet:Yes/No
Neutral Citation Case: Yes/No
ab



Crl.O.P.No.8039 of 2023

WEB COPY

To

1.The State of Tamil Nadu
By Inspector of Police,
Thali Police Station,
Hosur,
Krishnagiri District.

2.The Public Prosecutor,
High Court of Madras.



WEB COPY



Crl.O.P.No.8039 of 2023

SUNDER MOHAN, J.

ab

Crl.O.P.No.8039 of 2023

12.04.2023