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Crl.O.P.No.13667 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2023

CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.13667 of 2023

Sathya

...

Petitioner

VS

The State of Tamil Nadu
represented by the Inspector of Police,
K-7 ICF, Police Station,
Chennai.

...

Respondent

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C, to set aside the order passed in the Crl.M.P.No.40190 of 2022 in CC.No.7270 of 2021 pending on the file of the V Metropolitan Magistrate, Egmore at Chennai dated 06.12.2022.

For Petitioner

...

Mr.D.Jaisankar

For Respondent

...

Mr.Leonard Arul Joseph Selvam
Government Advocate (crl.side)



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ORDER

This Criminal Original Petition has been filed to set aside the order passed in the Crl.M.P.No.40190 of 2022 in CC.No.7270 of 2021 pending on the file of the V Metropolitan Magistrate, Egmore at Chennai dated 06.12.2022.

2. Learned counsel for the petitioner submitted that, petitioner filed petition for recalling PW1, PW2, PW5 and PW6 in Crl.M.P.No.40190 of 2022 in C.C.No.7270 of 2021. The learned V Metropolitan Magistrate, Egmore allowed the petition, with a condition to deposit a sum of Rs.1,000/- each for PW1, PW2 and PW5 as witness cash batta and Rs.2,000/- for PW6 as witness cash batta. Failing payment, it was ordered that, petition will be dismissed automatically. It is further submitted by the learned counsel for the petitioner that, petitioner is a daily wager and he is not able to pay the amount ordered by the trial Court and therefore, he filed this petition.



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3. In response, learned Government Advocate (Criminal side) submitted that, this case is pending from the year 2021 and the condition imposed by the trial Court was correct and therefore, he prays for dismissal of this petition.

4. Considered the submissions and perused the records.

5. The Hon'ble Supreme Court of India and this Court had repeatedly said that, cross examination of witnesses should be completed on the same day of their chief examination. However, this Court finds that PW1, PW2, PW5 and PW6 were not cross examined on the date of their chief examination. This case is pending from the year 2021. Only in the year 2022, petition was filed for recalling PW1, PW2, PW5 and PW6. The learned Metropolitan Magistrate, with a view to give an opportunity to the petitioner, allowed the petition, subject to payment of cash batta to the witnesses.

6. This Court finds that, there is no illegality or irregularity in



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ordering cash batta to the witnesses. The reason for ordering cash batta is that, witnesses have to spend from their pocket for coming to the Court and they would lose that day's earning. Only for compensating the loss of the witnesses, this kind of condition is imposed.

7. In such view of the matter, the order of the learned V Metropolitan Magistrate, Egmore, Chennai dated 06.12.2022 in Crl.M.P.No.40190 of 2022 in CC.No.7270 of 2021 is confirmed and this Criminal Original Petition is dismissed, with a direction to the petitioner to pay the cash batta to PW1, PW2, PW5 and PW6, as ordered by the learned V Metropolitan Magistrate, Egmore, Chennai and on payment of the cash batta, witnesses may be summoned for cross examination.

21.06.2023

Index: Yes/No

Internet: Yes/No

Speaking/Non speaking order

gd



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To

- 1.The V Metropolitan Magistrate,
Egmore, Chennai
- 2.The Inspector of Police,
K-7 ICF, Police Station,
Chennai.
- 3.The Public Prosecutor,
High Court, Madras.



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G.CHANDRASEKHARAN, J.

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