



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.19055 of 2023 and
Crl.M.P.No.12743 of 2023

- 1) Mr.Gajendiran
- 2) Mr.Arul
- 3) Mr.Murali
- 4) Kuppammal

... Petitioner

Vs.

State Rep. by its
Inspector of Police,
Kaveripattinam Police Station,
Krishnagiri.
(Crime No.680 of 2018)

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 06.04.2023 passed in Crl.MP.No.2791/2023 in C.C.No.536/2019 on the file of the Judicial Magistrate No.1, Krishnagiri.

For Petitioners	: Mr.J.Pradeep
For Respondent	: Mr.A.Damodaran Additional Public Prosecutor



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ORDER

This petition has been filed challenging the order passed by the Court below dismissing the application filed under Section 311 of Cr.P.C., to recall P.W.1 to P.W.3 for cross-examination.

2.Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor.

3.The petitioner is facing trial before the Court below for offense under Sections 294(b), 323, 324 and 506(ii) of IPC. P.W.1 to P.W.3 were examined in-chief on 08.12.2020. These witnesses were not cross-examined on the side of the petitioner. Ultimately, an application came to be filed in the year 2023 under Section 311 of Cr.P.C., to recall these witnesses for cross-examination. The said application came to be dismissed by the Court below.



4.The Court below has stated that the application came to be filed after nearly 25 months in the year 2023 and there was absolutely no reason given as to why those witnesses were not examined during the relevant point of time and as to why it took such a long time for the petitioner to file an application for recalling those witnesses.

5.It is brought to the notice of this Court that the case is now posted for examination of LW4 to LW6 on 30.08.2023.

6.Taking into consideration the facts and circumstances of the case and in order to afford an opportunity to the petitioner to cross-examine the witnesses., this court is inclined to interfere with the order passed by the court below by imposing certain conditions. Accordingly, this Criminal Original Petition is disposed of in the following manner:

a) the order passed by the court below in Crl.MP.No.2791 of 2023, dated 06.04.2023, is hereby set aside.



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b) the petitioner is directed to deposit cost of a sum of Rs.2500/- for each of the witness before the Court below to the account of C.C.No.536 of 2019, on or before 30.08.2023.

c) When the matter comes up for hearing on 30.08.2023, if the petitioner has complied with the condition of depositing the cost as directed by this court, the Court below shall issue summons to P.W.1 to P.W.3 for their appearance for cross-examination.

d) On the date of the appearance of P.W.1 to P.W.3 they shall be cross-examined and the cross-examination shall be completed on the same day. If in any event, the petitioner fails to cross-examine P.W.1 to P.W.3 on the date of their appearance, the petitioner will loose his right to recall those witnesses in future and



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f) The court below is directed to dispose of C.C.No.536 of 2019, within a period of three months from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed.

23.08.2023

Index : Yes/No
Internet : Yes/No
Speaking/Non-Speaking Order
ssr

Note: Issue Order Copy on 25.08.2023

To

1. Judicial Magistrate No.1,
Krishnagiri.
2. Inspector of Police,
Kaveripattinam Police Station,
Krishnagiri.
3. The Public Prosecutor,
High Court, Madras.



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N.ANAND VENKATESH, J

SSR

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