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Crl.O.P.No.19379 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.08.2023

CORAM :

THE HONOURABLE Dr. JUSTICE **G.JAYACHANDRAN**

Crl.O.P.No.19379 of 2023

Velu

.. Petitioner

Vs.

The State rep by its
Inspector of Police,
Vigilance and Anti-Corruption, P.S.,
Villupuram District.
Crime No.19 of 2018

..Respondent

PRAYER : Criminal Original Petition has been filed under section 482 of Criminal Procedure Code to set aside the order dated 09.02.2023 made in Crl.M.P.No.236 of 2022 in Spl.S.C.No.1 of 2021 on the file of the learned Chief Judicial Magistrate, Special Court of the Vigilance and Anti-Corruption Cases (FAC), Villupuram by recall the witness PW.1.

For Petitioner : M/s.S.Saravana Kumar

For Respondent : Mr.S.Udaya Kumar
Government Advocate (Crl.Side)



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ORDER

The accused, who filed a petition to recall PW.1, the competent authority, who gave sanction to prosecute, is aggrieved by the dismissal of the petition by the trial Court and hence before this Court by filing petition under Section 482 of Cr.P.C.

2. From the records, this Court finds that PW.1 was examined on 09.06.2022, on the same day, he was cross examined by the accused. Thereafter, summons to LW.2 and LW.3 was issued. Even before, they could be examined, the accused has come forward to recall PW.1, since he has felt that some more questions has to be put to the witness in the cross examination. The trial Court has dismissed the petition on the ground that the petition is filed only to drag the proceedings and the petition to recall have not stated on what aspects the witness has to be recalled. The accused did not disclose the facts even prior to the cross examination of the witness and further the petition to recall filed immediately even before the other witnesses could be examined. Hence the attributive motive for filing the petition to recall is also not correct.



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3. This Court finds that the reason given by the trial Court is not appropriate, hence the order of the trial Court refusing to recall PW.1 is set aside.

4. Accordingly, this Criminal Original Petition is allowed on condition that the petitioner shall cross examine PW.1 on the day when he is present before the Court on receipt of Court summons for examination. If the petitioner fails to cross examine PW.1, on the day he appear, no further opportunity shall be given for examination.

30.08.2023

Internet : Yes/No
rpl

To

1.The Chief Judicial Magistrate, Special Court of the Vigilance and Anti-Corruption Cases (FAC), Villupuram

2.TheInspector of Police,
Vigilance and Anti-Corruption, P.S.,
Villupuram District.

3.The Pubic Prosecutor,
High Court of Madras, Chennai.



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Dr.G.JAYACHANDRAN, J.

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