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Crl.O.P.Nos.21412 & 21413 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.Nos.21412 & 21413 of 2023

and

Crl.M.P.Nos.14758 & 14759 of 2023

V.Ajithkumar
S/o.Veerasamy

... Petitioner in both petitions

Vs.

State represented by
Inspector of Police,
North Crime Police Station,
Tiruppur.
Crime No.631 of 2017

... Respondent in both petitions

Prayer: Criminal Original Petitions filed under Section 482 Cr.P.C., to set aside the common order dated 18.08.2023 made in Crl.M.P.Nos.10709 & 10140 of 2023 in C.C.No.506 of 2017 on the file of Judicial Magistrate I, Tiruppur.

For Petitioner : Mr.M.Vignesh
[in both petitions]

For Respondent : Mr.A.Damodaran
[in both petitions] Additional Public Prosecutor

COMMON ORDER



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These Criminal Original Petitions have been filed challenging the order passed by the Court below dismissing the petition filed for recalling PW-1 and PW-2 for cross-examination.

2. The petitioner is facing trial before the Court below for offences u/s.387 and 506(ii) IPC. The petitioner is arrayed as A2 in this case and the prosecution witnesses PW-1 and PW-2 were not cross-examined and hence, the petitioner filed a petition u/s.311 Cr.P.C. to recall PW-1 and PW-2 for cross-examination. This petition came to be dismissed by the Court below by order dated 18.08.2023. Aggrieved by the same, the present petition has been filed.

3. Heard Mr.M.Vignesh, learned counsel for petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor appearing for respondent.

4. Learned counsel for petitioner submitted that A1 also filed a similar petition in C.M.P.No.10807 of 2023 for recalling PW-1 and PW-2 for cross-examination and this petition was allowed by the Court below



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by order dated 24.08.2023. Learned counsel further submitted that PW-1 and PW-2 will be present in Court on 21.09.2023 for cross-examination by A1. Learned counsel, therefore, requested that the petitioner may also be permitted to cross-examine these two witnesses.

5. Taking into consideration the submissions made by learned counsel for petitioner, now that the Court below has permitted recall of PW-1 and PW-2 for cross-examination by A1, it will be more appropriate to give one opportunity to the petitioner also to cross-examine these witnesses on the date of their appearance. Hence, the petitioner (A2) can cross-examine PW-1 and PW-2 when they are present before the Court based on the petition that was filed by A1 for recalling PW-1 and PW-2.

6. In the light of the above discussion, the order passed by the Court below in Crl.M.P.Nos.10709 & 10140 of 2023 in C.C.No.506 of 2017, dated 18.08.2023 is hereby set aside. The petitioner (A2) shall also be permitted to cross-examine PW-1 and PW-2 on the date of their appearance. If for any reason, the petitioner fails to cross-examine these

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witnesses on the date of their appearance, the petitioner will loose his
right to recall these witnesses in future. The cross-examination shall be
completed on the same day when PW-1 and PW-2 appear before the
Court below.

These Criminal Original Petitions are ordered in the above terms.
Consequently, connected miscellaneous petitions are closed.

19.09.2023

Note to office: Issue order copy by 20.09.2023

Speaking Order/Non-speaking Order

Index :Yes/No

Neutral citation: Yes/No

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To

1.The Judicial Magistrate I, Tiruppur.

2.The Inspector of Police,
North Crime Police Station,
Tiruppur.
Crime No.631 of 2017

3.The Public Prosecutor,
High Court, Madras.

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