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Crl.O.P.No.25762 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.25762 of 2023

S.Jeganathan

... Petitioner

Vs.

State rep.by
The Sub Inspector of Police,
Veraiyur Police Station,
Thiruvannamalai.
(Crime No.3 of 2019)

... Respondent

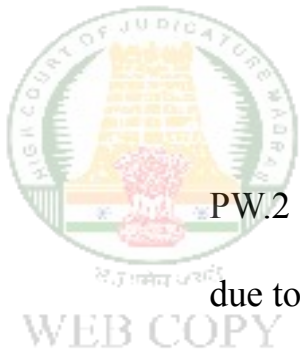
Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to set aside the order in Crl.M.P.No.6937 of 2023 in C.C.No.194 of 2020 dated 20.10.2023 passed by learned Judicial Magistrate-I, Thiruvannamalai.

For Petitioner : Mr.P.Jayachandran

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

ORDER

This Criminal Original Petition is filed to set aside the order in Crl.M.P.No.6937 of 2023 filed under Section 311 Cr.P.C., to recall PW.1,



PW.2 and PW.7 since they were not cross examined by the accused person due to illness of the counsel.

2. The trial Court had dismissed the petition on the ground that the accused ought to have cross examined the witness on the day when the witness is present. Absence of counsel engaged by him and change of counsel cannot be a reason to recall the witnesses again. The record indicates that these three witnesses were examined in the year 2002. Recall petition is filed after one year, however, meanwhile examination of other prosecution witnesses were in progress.

3. The learned Government Advocate (Crl.Side) appearing for the State submits that the case is adjourned for examination of Investigating Officer on 20.11.2023.

4. This Court is of the view that if the witnesses are recalled and examined on 20.11.2023 no prejudice will be caused either for witnesses or for the prosecution. Therefore, this Criminal Original Petition is allowed. The order of the trial Court passed in Crl.M.P.No.6937 of 2023 dated 20.09.2023



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is set aside. The petitioner shall pay the batta of this witnesses for appearance on 20.11.2023. Witness summons shall be issued. If the witnesses are present on the day, the petitioner herein has to cross examine them on the same day. If he fails to cross examine on the same day, no further opportunity will be given, he will lose the opportunity.

10.11.2023

Neutral Citation : Yes/No
rpl

To

1.The Judicial Magistrate-I, Thiruvannamalai.

2.The Sub Inspector of Police,
Veraiyur Police Station,
Thiruvannamalai.

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



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Dr.G.JAYACHANDRAN, J.

rpl

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