



Crl.O.P(MD) Nos.519 of 2023 and 23043 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 27.04.2023

CORAM:

The Hon`ble Mr.Justice **G.ILANGO VAN**

**Crl.O.P.(MD)No.519 of 2023 and
Crl.O.P(MD)No.23043 of 2022**

and

**Crl.M.P.(MD)No.448 of 2023 and
Crl.M.P(MD)No.16337 of 2022**

1.Udhaya Kumar
2.Sangili
3.Navaskhan
4.Kasi

... Petitioners in both Crl.O.Ps.

Vs

State represented by
The Inspector of Police,
Puliyarai Police Station,
Tenkasi District.
(Crime No.11 of 2017)

... Respondent in both Crl.O.Ps.

Common Prayer: Petition filed under Section 482 of Cr.P.C., to call for the records relating to the order dated 27.10.2022 in Cr.M.P.Nos.482 and 502 of 2022 in S.C.No.141 of 2018 by the learned Additional District and Sessions Judge (Fast Track Court), Tenkasi and set aside the same as illegal.



Crl.O.P(MD) Nos.519 of 2023 and 23043 of 2022

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For Petitioner : Mr.P.Palani

For Respondents : Mr.B.Nambiselvan
Additional Public Prosecutor

COMMON ORDER

These Criminal Original Petitions have been filed to call for the records relating to the order dated 27.10.2022 in Cr.M.P.Nos.482 and 502 of 2022 in S.C.No.141 of 2018 by the learned Additional District and Sessions Judge (Fast Track Court), Tenkasi and set aside the same as illegal.

2. The petitioner is facing charges under Section 302 of I.P.C., before the learned Additional District Judge (Fast Track), Tenkasi. On the side of the prosecution, P.W.1 and P.W.2 were examined in chief as early as on 16.09.2022. On the date of examination, they were not cross examined by the accused. Seeking recalling the above said witnesses, a petition was filed which came to be dismissed by the trial Court stating that the present case is of the year 2018 which is transferred from



Crl.O.P(MD) Nos.519 of 2023 and 23043 of 2022

Tirunelveli District Court and thereafter trial was commenced and P.W.1 and P.W.2 were examined after framing charges. The reason for not cross examining the witnesses on the date of chief examination was stated to be that they were sought some information from the RTI and there is some delay in getting the information and that therefore they were not cross examined the witnesses on the date of chief examination. The said arguments were not accepted by the trial Court and the petition for recalling the witnesses, was dismissed.

3. Eventhough, the reason assigned by the petitioner is not at all acceptable and also not convincing and for the offences under Section 302 of IPC, unless cross examination of eye witnesses are made, a fair justice may not be possible. On the sole ground, the above said order of dismissal is set aside and this Criminal Original Petition is allowed on condition that the petitioner shall pay Rs.5,000/- each (Rupees Five Thousand only - each) as cost within a period of one week from the date of receipt of a copy of this order before the trial Court. On deposit, the learned trial Judge may fix a date for cross examination of the witnesses and send summon to the witnesses on the same day. Let the petitioner



Cri.O.P(MD) Nos.519 of 2023 and 23043 of 2022

cross examine both the witnesses on the same day without seeking any adjournments. The entire exercise shall be completed on 16.06.2023.

Since according to the learned Additional Public Prosecutor, the matter is listed on 16.06.2023. The witnesses are to be summoned on 16.06.2023 itself. Meantime the deposit has to be made.

4. These Criminal Original Petitions are allowed. Consequently, connected miscellaneous petitions are closed.

27.04.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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Cri.O.P(MD) Nos.519 of 2023 and 23043 of 2022

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To

1. The Additional District and Sessions Judge (Fast Track Court),
Tenkasi
2. The Inspector of Police, Puliyarai Police Station, Tenkasi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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Crl.O.P(MD) Nos.519 of 2023 and 23043 of 2022

G.ILANGO VAN, J.

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