



Crl.O.P.(MD)No.1253 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.01.2023**

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.1253 of 2023

and

Crl.M.P.(MD)No.1111 of 2023

Thangamani

... Petitioner

Vs.

The State represented by
The Inspector of Police,
Devathanapatti Police Station,
Theni District.
(Crime No.1379 of 2020)

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records of the learned Subordinate Judge, Periyakulam District in Crl.M.P.No.209 of 2022 in S.C.No.77 of 2021 and set aside the order dated 12.07.2022.

For Petitioner : Mr.P.Balasubramanian

For Respondent : Mr.R.Sivakumar
Government Advocate (Crl. Side)



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Crl.O.P.(MD)No.1253 of 2023

ORDER

This Criminal Original Petition is directed against the order passed in Crl.M.P.No.209 of 2022 in S.C.No.77 of 2021 dated 25.07.2022 dismissing the petition filed under Section 311 Cr.P.C.

2. It is evident from the records that the petitioner/sole accused has filed a petition under Section 311 Cr.P.C. to recall the witnesses P.W.1 and P.W.2 for cross-examination and the learned Assistant Sessions Judge has passed an order dated 12.07.2022 stating that the petition will be allowed on condition that the petitioner has to pay a sum of Rs.3,000/- to the Mediation Centre, Theni and Rs.1,000/- each to the witnesses sought to be summoned before the Court and posted the case on 25.07.2022 and on 25.07.2022, the learned Assistant Sessions Judge, since the order was not complied with, has dismissed the petition.

3. The learned counsel appearing for the petitioner would submit that they have already deposited Rs.2,000/- before the concerned Court



Crl.O.P.(MD)No.1253 of 2023

and they are ready to pay a sum of Rs.3,000/- to the Mediation Centre, Theni.

4. Considering the above facts and circumstances and also the fact that the petitioner is ready and willing to pay the amount as directed by the trial Court, this Court is inclined to set aside the impugned order passed by the learned Assistant Sessions Judge, Periyakulam.

5. In the result, this Criminal Original Petition is allowed and the impugned order, dated 25.07.2022 in Crl.M.P.No.209 of 2022 in S.C.No. 77 of 2021 on the file of the Assistant Sessions Judge, Periyakulam, is set aside and the petition to recall the witnesses is allowed on payment of cost of **Rs.3,000/- (Rupees Three Thousand Only)** to the Mediation Centre, Theni and on further condition that the petitioner side should cross examine the witnesses whenever the witnesses are produced before the Court and in case of the petitioner's failure to cross examine the particular witness, then he will forfeit his right to cross examine the witness. The trial Court is directed to summon the said witnesses for the purpose of cross examination and complete the examination of the said



Crl.O.P.(MD)No.1253 of 2023

witnesses within one month from the date of receipt of copy of this order.

Consequently, connected Miscellaneous Petition is closed.

24.01.2023

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

To

- 1.The Assistant Sessions Judge,
Periyakulam.
- 2.The Inspector of Police,
Devathanapatti Police Station,
Theni District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD)No.1253 of 2023



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Crl.O.P.(MD)No.1253 of 2023

K.MURALI SHANKAR,J.

csn

Order made in
Crl.O.P.(MD)No.1253 of 2023
and
Crl.M.P.(MD)No.1111 of 2023

Dated: 24.01.2023