



CrI.O.P.(MD).No.4798 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :29.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

CrI.O.P.(MD).No.4798 of 2021

and

CrI.M.P(MD) No.2722 of 2021

1. Shanthi
2. Thiyagarajan
3. Thilagam @ Thilagavathy
4. Anantharaj @ Ananth

... Petitioners

Vs.

The Inspector of Police
Manor Police Station
Tirunelveli District

..Respondent

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to set aside the order passed in Cr.M.P.No.2565 of 2019 in C.C. No.239 of 2019 on the file of the learned Judicial Magistrate, Additional Mahila Court, Tirunelveli dated 23.11.2020.

For Petitioners : Mr.S.T.Sasidharantamilkani

For Respondent : Mr.M.Sakthikumar
Government Advocate (CrI. side)

ORDER

This Criminal Original Petition has been filed to set aside the order passed in Cr.M.P.No.2565 of 2019 in C.C. No.239 of 2019 on the



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file of the learned Judicial Magistrate, Additional Mahila Court, Tirunelveli dated 23.11.2020.

2. The above said Cr.M.P.No.2565 of 2019 in C.C. No.239 of 2019 was filed to recall witnesses, wherein the petitioners have filed petition stating that originally the case was posted on 14.12.2018 for trial. On that day the prosecution witnesses were examined in chief , but due to the personal inconvenience of the petitioner's counsel he was unable to cross examine the above said witnesses and the said witnesses are essential for the just decision of the case and the non examination of witnesses is neither wilful nor wanton, therefore the petition was allowed and the witnesses have to be recalled. Thereafter the trial Court has allowed the petition with condition that the petitioners have to pay a sum of Rs.300/- to the concerned District Legal Services Authority on or before 04.11.2019 failing which the petition shall be automatically dismissed and the said order was complied with on 01.10.2019. Thereafter when the matter was came up for hearing on 23.11.2020 the accused called absent and no representation, process not filed in M.P.No. 2565 of 2019 and the same was dismissed.

3.As against the said order the present Criminal Original Petition has been filed stating that previous counsel who appeared on behalf of the petitioners died on 10.07.2020. The said counsel did not



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inform the date of hearing to the petitioners and the absence of the petitioners before the trial Court is neither wilful nor wanton and the State Government also declared lockdown due to covid.19. In the above said circumstances the petitioners are unable to contact their counsel and appear before the trial Court for hearing dates.

4. The respondent did not raise any serious objection for allowing this petition.

5. In view of the above said reasons stated by the petitioner that due to Covid.19 pandemic situation and due to the death of the earlier counsel they were unable to contact the counsel and follow the case, thereby they unable to pay the process and the petition was dismissed and the nature of cases and so far P.W.1 was not examined and in the interest of justice it is appropriate to allow the petition. In view of the same, the order passed by the learned Magistrate by dismissing the Cr.M.P. No.2565 of 2019 is set aside and the petitioners are directed to pay the process fee within a period of one week from the date of receipt of a copy of this order and thereafter the learned Magistrate shall proceed the case further in accordance with law.



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6. With the above direction the Criminal Original Petition is disposed of. Consequently connected miscellaneous petition is closed.

29.09.2023

Index : Yes / No
Internet : Yes / No
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To

1. The Judicial Magistrate, Additional Mahila Court, Tirunelveli
2. The Inspector of Police
Manor Police Station
Tirunelveli District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL, J.

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