



WEB COPY

Crl.O.P.(MD)No.4461 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGOVAN**

Crl.O.P.(MD)No.4461 of 2023
and
Crl.M.P(MD).No.3936 of 2023

1.Chandrasekar

2.Palaniyappan

3.Sekar

4.Ramesh

5.Gopi

... Petitioners

Vs.

State represented by
The Inspector of Police,
Aranthangi Police Station,
Pudukkottai District.
(Crime No.244 of 2019)

...Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to set aside the order in Crl.M.P(MD).No.1137 of 2022 in S.C.No.47 of 2020 dated 17.02.2023 on the file of the learned Chief Judicial Magistrate Court, Pudukkottai by allowing this Criminal Original Petition.



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For Petitioners : Mr.P.Ganapathi Subramanian
For Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

ORDER

This petition has been filed to set aside the order of dismissal dated 17.02.2023 passed in petition filed under Section 311 of Cr.P.C by the Chief Judicial Magistrate Court, Pudukkottai, in Crl.M.P.No.1137 of 2022 in S.C.No.47 of 2020 and allow this Criminal Original Petition.

2. The petitioners are facing trial before the Court below and several witnesses were examined in chief on various dates. The petitioners did not cross-examine the witness P.W.1, since on the date of cross examination, his counsel was sick. After closing the prosecution side witnesses, the case was posted for defense side witnesses, at that time, petition has been filed by them and the same was dismissed by the trial Court by citing order of Hon'ble Supreme Court and no proper reason was assigned for non-cross examination of P.W.1.

3. Heard both sides.



4. Perusal of records shows that P.W.1, suffered injury, at the hands of this petitioners and the offence under Section 307 IPC is grievous in nature and therefore, one more opportunity should be given to the petitioners to cross examine P.W.1.

5. Considering the fact that petitioner is facing serious charges, without cross examination of the witness P.W.1, a fair judgment may not be possible. On the sole ground, one more opportunity is given to the petitioners on stringent condition. The petitioners are directed to pay Rs. 2,000/- (Rupees Two Thousand Only) jointly, as cost to P.W.1 within a week from the date of receipt of copy of this order. On such payment, the trial Court may fix the date for cross examine the witness of P.W.1. On that date the petitioners' counsel must cross examine the P.W.1 without fail. If any failure is noticed on the part of the petitioners' counsel, his further right of cross examination of P.W.1 will be forfeited forever.

6. With the above said direction, this petition stands allowed and the order passed by the learned Chief Judicial Magistrate Court, Pudukkottai, in Crl.M.P.No.1137 of 2022 in S.C.No.47 of 2020, dated 17.02.2023, is quashed. Consequently, the connection miscellaneous



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petition is closed.

09.03.2023

Index : Yes/No
Internet : Yes/No
tta

To

- 1.The Inspector of Police,
Aranthangi Police Station,
Pudukkottai District.
2. Chief Judicial Magistrate Court, Pudukkottai

G.ILANGOVAN. J.



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