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CrI.O.P.(MD)No.6596 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.04.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGO VAN**

CrI.O.P.(MD)No.6596 of 2023
and CrI.M.P.(MD).No.5773 of 2023

1.Prince

2.Victor

3.Ebi

... Petitioners/Accused

Vs.

The Sub Inspector of Police,
Thiruvattar Police Station,
Kanniyakumari District.
Crime No.44 of 2003.

... Respondent/Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records and set aside the order passed in Cr.M.P.No. 10706 of 2022 in C.C.No.1214 of 2018, dated 07.12.2022, on the file of Judicial Magistrate Court No.II, Padmanabhapuram and consequently recall the witness PW1 to PW6 for cross examination.

For petitioners : Mr.R.Ponkarthikeyan

For Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor



ORDER

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This criminal original petition has been filed seeking to set aside the order passed in Cr.M.P.No.10706 of 2022 in C.C.No.1214 of 2018, dated 07.12.2022, on the file of Judicial Magistrate Court No.II, Padmanabhapuram and consequently recall the witness PW1 to PW6 for cross examination.

2.The case is of the year 2018. PW1 to PW6 were examined on the side of the prosecution. Later the petitioner filed a petition to recall PW1 to PW6 on 07.09.2022. The above petition was dismissed on the ground that PW1 to PW3 were examined in chief on 04.12.2007, PW4 was examined in chief on 08.03.2010 and PW5 & PW6 were examined in chief on 08.04.2010. After completion of the chief examination of every witnesses the case was adjourned for cross examination by the accused person. But he did not do so. Pointing out the lethargic attitude of the petitioner, the above said petition has been dismissed. The learned counsel for the petitioner submitted that after the examination of PW6, the case was kept pending for further examination of witnesses. Prosecution has not taken care to produce the other witnesses. But the above said lapse on the part of the petitioner is not proper.



3. Whatever may be, the trial has not been completed till now. The petitioner is facing charges for the offences under Sections 341, 324, 323 IPC. Unless the injured is cross examined in proper manner, fair justice is not possible. Even though there is a delay, it should be compensated. On that sole ground, I am of the considered view that the petition is liable to be allowed with the following stringent conditions.

1) The petitioner must deposit a sum of Rs.5,000/- (Rupees five Thousand only) as cost to each of the witnesses namely PW1 to PW6 the credit of C.C.No.1214 of 2018 before the trial Court, within a period of 15 days from the date of receipt of a copy of this order.

2) On such deposit, the trial Court is directed to recall the witnesses P.W.1 to P.W.6 for cross examination by fixing a particular date. On that date, the petitioner must cross examine the witnesses without fail. If any failure is noticed, then the further right to cross examine the witness will be forfeited.

4. Since the matter is of the year 2018, the trial Court shall expedite the trial process in this case and conclude the same within a period of **three** months from the date of receipt of a copy of this order.



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5. With the aforesaid directions, this criminal original petition is disposed of. Consequently, connected miscellaneous petition is closed.

11.04.2023

Index : Yes/No
Internet : Yes/No
TM

To

1. The Judicial Magistrate Court No.II, Padmanabhapuram.
2. The Sub Inspector of Police,
Thiruvattar Police Station,
Kanniyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGOVAN. J.

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