



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Criminal Original Jurisdiction

Thursday, the Seventeenth day of August Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD). No.11679 of 2023
in
CRL OP(MD)No.5658 of 2023

N.Subburaj ... Petitioner/2nd Respondent
Vs

1. The Deputy Superintendent Of
Police Special Investigation Officer
Periyakulam Sub Division Thenkarai Police
Station Theni District. .. Respondents/Respondents
2. O.Raja .. 3rd Respondents/Petitioner

Prayer in CRL. MP(MD)No.11679/2023:-

This Criminal Miscellaneous Petition filed under section 482 of Criminal Procedure Code to recall the case in CrI.O.P.(MD).No.5658/2023 on the file of this Court.

Prayer in CRL. OP(MD)No.5658/2023:-

This Criminal Original petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the impugned order dated 07.03.2023 CrI.M.P.No.78 of 2023 in Spl.S.C.No.112 of 2019 passed by the Special Court for Exclusive Trial of Cases Under SC/ST Act, Dindigul and set aside the same by allowing the Criminal Original Petition.



ORDER:- This Criminal miscellaneous Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.C.M.Arumugam, Advocate for the Petitioner and of Mr.B.Nambiselvan, Additional Public Prosecutor for the respondent No.1 this Court made the following order:

Perusal of records shows that CrI.O.P.(MD).No.5658 of 2023 was moved by O.Raja, who is the accused in Spl.S.C.No.112 of 2019, seeking order to set aside the order that was passed by the trial Court in CrI.M.P.No.78 of 2023.

2.The petition was filed by the accused person, seeking recall of PW1, PW11, PW12, PW15 and PW22, that was dismissed by the trial Court on 07.03.2023. Against the above said dismissal order, the above said petition was filed by the accused before the Court.

3.Even though notice was not served upon the defacto complainant, which ought to have been served by this Court, by wrongly mentioning that one Mr.T.Senthil Kumar is appearing for the defacto complainant, the above said order dated 06.04.2023 has been passed by this Court.

4.It has been brought to the notice of this Court by the learned counsel for the petitioner and also by the Registry, it appears that the above said mistake has been committed by mentioning one Mr.T.Senthil Kumar's name stating that he appeared for the defacto complainant. Now, it has been verified that he is Additional Public



Prosecutor appearing before this Court on behalf of the State. Because of the same, the above said factual mistake, was committed.

5.This petition has been filed by the defacto complainant seeking recall of the above said order. In view of the above said factual mistake, the order that has been passed by me, dated 06.04.2023, even though it is an order on merits, since it has been passed without following mandatory requirements of law, the above said order is not legal, is hereby **Recalled**. Registry is directed to restore the original petition on file and list the same before the concerned Bench for fresh hearing.

Sd/-

Assistant Registrar(CS III)

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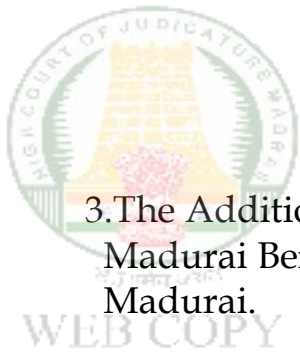
/09/2023

Sub Assistant Registrar(CS)

TO

1.The Special Court for Exclusive Trial of Cases,
Under SC/ST(POA)Act,
Dindigul.

2.The Deputy Superintendent Of Police,
Special Investigation Officer
Periyakulam Sub Division,
Thenkarai Police Station,
Theni District.



3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ One cc to M/s.K.Goplan, Advocate, SR.No.39284

+ One cc to M/s.C.M.Arumugam, Advocate, SR.No.39333.

Copy to:

The Section Officer,
Criminal Section,

Madurai Bench of Madras High Court, Madurai.

BEFORE THE MADURAI BENCH OF
MADRAS HIGH COURT

Hon`ble Mr.Justice
G.ILANGO VAN

ORDER DATED : 17/08/2023

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ORDER

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CRL MP(MD). No.11679 of 2023

in

CRL.OP(MD)No.5658 of 2023

SI(29.08.2023) 4P/ C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.