



Crl.O.P.(MD) No.17524 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.10.2023

CORAM:

THE HONOURABLE DR.JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.17524 of 2023
and Crl.M.P.(MD).No.13919 of 2023

1.M/s.Selvam Marketting,
Represented by its Proprietor,
Mr.Kasirajan

2.Mr.Kasirajan
Proprietor,
Selvam Marketting,
135, V.E.Road, Thoothukudi.

... Petitioner / Petitioner / Accused

Vs.

Ms.Sivasakthi Kala,
Represented through her Power of Attorney,
Mr.Ganesan,
Door. No.4/183/4,
Muthammal Colony 2nd Street Extension,
Thoothukudi.

...Respondent / Respondent / Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the order dated 24.04.2023 made in Crl. Mp. No. 1182 of 2023 in C.C. No.230 of 2016 pending on the file of the Fast Track Court



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(Magisterial Level), Thoothukudi in respect of denial of cross examination of PW-2 and set aside the same.

For Petitioner

:Mr.P.Selvakamatchi

ORDER

This criminal original petition has been filed to set aside the order, dated 24.04.2023 made in Crl.M.P.No.1182 of 2023 in C.C.No.230 of 2016 pending on the file of the Fast Track Court (Magisterial Level), Thoothukudi, in respect of denial of cross examination of PW-2.

2.Being not satisfied over the dismissal of a portion of the relief passed by the Fast Tract Court (Magisterial Level), Thoothukudi, in Crl.M.P.No.1182 of 2023 in C.C.No.230 of 2016, dated 24.04.2023, this petition has been filed. Originally the application was filed by the petitioner to recall PW1 to PW4 for the purpose of further cross examination. That was considered on merits and in respect of PW2 it was dismissed, on the ground that he would be transferred to some other place. This Court is not in position to understand the above said observation. Whether concerned witness has been transferred or not, he has already spoken about the events during the chief examination, so he is only



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person competent to speak about the facts, during the cross examination. Without cross examination of PW2, the fair justice may not be possible.

3. On that sole ground, the impugned order, dated 24.04.2023 made in Crl.M.P.No.1182 of 2023 in C.C.No.230 of 2016 pending on the file of the Fast Track Court (Magisterial Level), Thoothukudi, in respect of denial of cross examination of PW-2, is hereby set aside and this criminal original petition is **allowed** with following stringent conditions.

1) The petitioner must deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) as cost to the witnesses PW2 to the credit of C.C.No.230 of 2016, before the trial Court, within a period of fifteen days from the date of receipt of a copy of this order.

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

2.



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Consequently, connected miscellaneous petition is closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

03.10.2023

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To

- 1.The Judicial Magistrate, Fast Track Court (Magisterial Level), Thoothukudi.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVA. J.

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