



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **12.04.2023**

CORAM:

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

CrI.O.P.(MD)No.16201 of 2022
and CrI.M.P.(MD) No.10735 of 2022

1. P. Kamalam
2. Suganya

... Petitioners

Vs.

The Inspector of Police,
District Crime Branch P.S,
Tiruchirappalli.
Crime No. 2/2017.

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records set aside the order passed in Cr.M.P No. 6497 of 2022 in C.C No. 455 of 2021 dated 30.03.2022 on the file of the learned Judicial Magistrate No.1, Tiruchirappalli.

For Petitioners	: Mr.V.Ilanchezian
For Respondent	: Mr.B.Nambiselvan
	Additional Public Prosecutor

ORDER

This petition has been filed to call for the records pertaining to the order passed in Cr.M.P No. 6497 of 2022 in C.C No. 455 of 2021 dated



30.03.2022 on the file of the learned Judicial Magistrate No.1,
Tiruchirappalli.

2. The petitioners are facing trial before the Court below and several witnesses were examined in chief on various dates. Due to the personal inconvenience, the petitioners' counsel did not cross-examine the witnesses P.W.11 and P.W.12. Thereafter, the petitioners filed the petition under Section 311 of Cr.P.C., to recall the above said witnesses and the same was dismissed on 30.03.2022 on flimsy reason. Hence, this petition is filed.

3. The learned Additional Public Prosecutor appearing for the respondent police submitted that sufficient opportunities have been given to the petitioners to cross examine the above said witnesses and the same was not properly utilized by the petitioners.

4. Heard both sides and perused the materials available on record.

5. Perusal of records shows that petitioners are facing offence under Sections 406, 417, 420 and 109 of Indian Penal Code and the case is pending from the year 2021. Therefore, one more opportunity should be given to the petitioners to cross examine P.W.11 and P.W.12.

6. Considering the fact that petitioners are facing trial under Sections 406, 417, 420 and 109 of Indian Penal Code, without cross examination of the witnesses P.W.11 and P.W.12, a fair judgment may not



CrI.O.P.(MD)No.16201 of 2022

be possible. On the sole ground, one more opportunity is given to the petitioners on stringent condition. The petitioners are directed to pay Rs. 5,000/- (Rupees Five Thousand Only) jointly, as cost to P.W.11 and P.W. 12 to the credit of C.C.No.455 of 2021 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 witnesses of P.W.11 and P.W.12. On that date the petitioners' counsel must cross examine the P.W.11 and P.W.12 without fail. If any failure is noticed on the part of the petitioners' counsel, his further right of cross examination of P.W.11 and P.W.12 will be forfeited forever.

7. With the above said direction, this petition stands allowed and the order passed by the learned Judicial Magistrate No.1, Tiruchirappalli, in Cr.M.P No. 6497 of 2022 in C.C No. 455 of 2021 dated 30.03.2022, is quashed. Consequently, the connected Criminal Miscellaneous Petition is closed.

12.04.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
TTA



To



CrI.O.P.(MD)No.16201 of 2022

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1. The Judicial Magistrate No.1, Tiruchirappalli.
2. The Inspector of Police,
District Crime Branch P.S,
Tiruchirappalli.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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CrI.O.P.(MD)No.16201 of 2022

G.ILANGOVAN. J.

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CrI.O.P.(MD)No.16201 of 2022

12.04.2023