



Crl.O.P.(MD) No.15506 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2023

CORAM:

THE HONOURABLE DR.JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.15506 of 2023

1.Mathiyazhagan

2.Sachithananthavalli

...Petitioner / Accused Nos.1 and 2

Vs.

The Inspector of Police,
Town East Police Station,
Thanjavur District.
(Crime No.30 of 2017)

...Respondent / Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records of the order in Crl.M.P. No.1314 of 2023 in C.C.No.52 of 2018 on the file of the Judicial Magistrate No.1 Thanjavur dated 07.07.2023, and set aside the same and consequently direct the Judicial Magistrate No.1 Thanjavur to recall PW1 to PW4.

For Petitioner	:Mr.M.Karunanithi
For Respondent	:Mr.M.Vaikkam Karunanithi
	Government Advocate (Crl. Side)



Crl.O.P.(MD) No.15506 of 2023

WEB COPY

ORDER

This criminal original petition has been filed to set aside the order passed in CrI.M.P.No.1314 of 2023 in C.C.No.52 of 2018 on the file of the Judicial Magistrate No.I, Thanjavur, dated 07.07.2023 and consequently direct the Judicial Magistrate No.1, Thanjavur to recall PW1 to PW4.

2.The learned counsel for the petitioner would submit that the petition has been filed by the petitioner seeking recall of PW1 and PW4 for further cross examination. The petitioner is facing charges before the trial Court under Section 324 of I.P.C. They were examined in chief on 01.07.2019 and 04.01.2021 respectively. On the date of the chief examination, the petitioner failed to cross examine the above said witnesses. It has been stated that the crime is of the year 2017. The petition filed by the petitioner before the trial Court under Section 311 Cr.P.C. to recall the above said witnesses was dismissed stating that without assigning proper reasons petition has been filed.

3.Without cross examining the injured witness fair justice may not be possible. Even though the reason set out by the petitioner for non cross



Crl.O.P.(MD) No.15506 of 2023

WEB COPY

examination is not appreciable, considering the fact that the petitioner is facing charges under Section 324 of I.P.C., this Court is of the view that without cross examination of the above said witnesses, the fair justice may not be possible. Therefore, this Court is inclined to give one more opportunity to the petitioner to recall PW1. So that he can let out the real truth.

4.On that sole ground, the impugned order passed in Crl.M.P.No.1314 of 2023 in C.C.No.52 of 2018 on the file of the Judicial Magistrate No.I, Thanjavur, dated 07.07.2023, is hereby set aside and this criminal original petition is **allowed** with following stringent conditions.

1) The petitioner must deposit a sum of Rs.5,000/- (Rupees Five Thousand only) as cost to the each of the witnesses namely PW1 to PW4 to the credit of C.C.No.52 of 2018, before the trial Court, within a period of fifteen 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 PW4 for cross examination by fixing a particular date. On that date, the petitioner must cross examine the



Crl.O.P.(MD) No.15506 of 2023

WEB COPY

above said witnesses without fail. If any failure is noticed, then the further right to cross examine the witness will be forfeited.

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

04.10.2023

TM

To

- 1.The Judicial Magistrate No.I, Thanjavur District.
- 2.The Inspector of Police,
Town East Police Station,
Thanjavur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD) No.15506 of 2023

G.ILANGOVAN. J.

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Crl.O.P.(MD)No.15506 of 2023

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