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Crl.O.P.(MD).Nos.14939 and 15298 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2023

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THE HON'BLE MR.JUSTICE G.ILANGO VAN

Crl.O.P.(MD).Nos.14939 and 15298 of 2023

and

Crl.M.P(MD)Nos.11828 and 12131 of 2023

Musthafa

... Petitioner in both petitions

Vs.

State by Inspector of Police,
District Crime Branch,
Thanjavur.

... Respondent in both petitions

PRAYER in Crl.O.P(MD)No.14939 of 2023: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to set aside the order made in Cr.MP.No.1722 of 2023 in CC.No.96 of 2022 on the file of the Judicial Magistrate No.III, Thanjavur.

PRAYER in Crl.O.P(MD)No.15298 of 2023: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to set aside the order made in Cr.MP.No.1723 of 2023 in CC.No.96 of 2022 on the file of the Judicial Magistrate No.III, Thanjavur.



Crl.O.P.(MD).Nos.14939 and 15298 of 2023

For Petitioner : Mr.V.Palanivelrajan
Senior Counsel
For Mr.V.Malaiyendran

For Respondent : Mr.M.Sakthi Kumar
Government Advocate
(Crl.side)

(in both cases)

COMMON ORDER

These Criminal Original Petitions have been filed to set aside the order made in Cr.MP.Nos.1722 and 1723 of 2023 in CC.No.96 of 2022 on the file of the Judicial Magistrate No.III, Thanjavur.

2. The petitioner is facing charges under Section 406, 420 and 420 of IPC before the trial Court. The trial process completed, P.W.10 was also examined in chief and cross. The case was posted for defence side witnesses. At that time, two applications were taken up by the petitioner. One is for seeking recall of P.W.10 for further cross examination and another one for leading defence side evidence. Both petitions came to be dismissed by the trial Court stating that no proper reasons are set out in the petition. Challenging the same, these petitions are filed.



3. Heard both sides.

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4. Learned Senior Counsel appearing for the petitioner would submit that eventhough P.W.10 was examined in chief and crossed, no specific question was put to him with reference to the particular document.

5. Per contra, learned counsel for the defacto complainant would submit that at the fag end of the trial process, these two applications were taken up by him belatedly and the petitioner indulged in dragging the matter endlessly. No proper reason is also set out in the petition. A specific question was put by the petitioner to P.W.10 over the particular document. So he makes strong objection to allow these petitions.

6. Reading of the cross examination of P.W.10 does not indicate that specific question was put to him with reference to the observation that was made by the trial Court in Para No.5(iii) of the order dated 25.07.2023 made in Crl.M.P.No.1723 of 2023. On the sole ground this petition is liable to be allowed.



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7. Since the defacto complainant is fighting the matter right from the beginning, let a sum of Rs.5,000/- (Rupees Five Thousand only) be paid by the petitioner directly to the defacto complainant within a period of one week from the date of receipt of a copy of this order. On such payment, the trial Court shall recall the P.W.10 for further cross examination by fixing a particular date. On the said date, the petitioner must cross examine the witness without any delay. With regard to the defence side witnesses, the trial Court may permit the petitioner to lead defence side evidence since it is his right. So far as the direction to conclude the trial process is concerned, already direction was issued, no further direction is required.

8. With this direction, these Criminal Original Petitions are allowed. Consequently, connected miscellaneous petitions are closed.

27.11.2023

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

Note: Issue order copy on **28.11.2023**

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To

- 1.The Judicial Magistrate No.III, Thanjavur.
2. The Inspector of Police, District Crime Branch, Thanjavur.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVA N,J.

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