



CRL OP(MD). No.17721 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 05/10/2023

CORAM

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD). No.17721 of 2023

and

CrI.M.P(MD)No.14031 of 2023

Gopala Krishnan Daga

... Petitioner / Accused

Vs

**State by
Represented by the Inspector of Police,
Thihdirnagar Police Station,
Madurai District,
Crime No.251/2022.**

... Respondent/Complainant

Prayer:

This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records of the Learned Vth Additional District Judge, Madurai in CrI M.P No. 1105 of 2023 dated 29.08.2023 and set aside the order rejecting the cross examination of PW1, PW5, PW8, PW9, PW12, PW13, PW15 and PW16.



WEB COPY



CRL OP(MD). No.17721 of 2023

For Petitioner : M/s.M.Karunanithi

For Respondent : Mr.M.Vaikkam Karunanithi
Government Advoate (Crl.side)

ORDER

This Criminal Original Petition is filed seeking for a direction, to call for the records of the Learned Vth Additional District Judge, Madurai in Crl M.P No. 1105 of 2023 dated 29.08.2023 and set aside the order rejecting the cross examination of PW1, PW5, PW8, PW9, PW12, PW13, PW15 and PW16.

2. The learned counsel for the petitioner submitted that the petitioner is facing charges under Section 302 of IPC and an application under Section 311 of Cr.P.C., for recalling of witnesses namely PW1, PW5, PW8, PW9, PW12, PW13, PW15 and PW16, for the purpose of further cross examination, filed by him. Learned counsel on record would submit that after change of the counsel, it was found that some materials portions and some of the contradictory portions have to be clarified. On that account he filed application for recall of witnesses for



CRL OP(MD). No.17721 of 2023

cross examination, which came to be dismissed by the learned V Additional District Judge, Madurai. Challenging the order, this petition has been filed.

3. Perusal of the order shows that earlier a recall application was filed in Cr.M.P.No.602 of 2023 to recall P.W.1 and P.W.2 and that was allowed by the trial Court on 12.06.2023. Later those witnesses have been recalled and cross examined. Now the present application has been filed again, to recall P.W.1 and other witnesses.

4. Learned counsel for the petitioner would submit that so far as P.W.1 is concerned, he is not pressing the recall petition. Further a deadline may be fixed by this Court for making the cross examination of other witnesses.

5. Recording the submissions of the learned counsel for the petitioner, this petition is dismissed in so far as recalling P.W.1 is concerned.



CRL OP(MD). No.17721 of 2023

6. Learned Government Advocate (Crl.side) would submit that already direction was issued by this Court to complete the trial process within a period of six months from 20.04.2023. The time is also going to over. According to the learned Government Advocate, if another application for recall of warrant is allowed, then there will be further delay in the matter.

7. Considering the fact that the petitioner is facing charges under Section 302 of IPC, one more opportunity is given to the petitioner to cross examine the witnesses namely PW5, PW8, PW9, PW12, PW13, PW15 and PW16, on payment of Rs.5,000/- each before the trial Court. Let the trial Court be fix a date for appearance of the witnesses and on that date, the petitioner must cross examine them without delay. If any failure is noticed, on the part of the petitioner, the order of this Court will automatically stand cancelled without further reference to the Court, further right of cross examination will be forfeited. It is made clear that the above said trial process be completed within the time stipulated by this Court. If any difficulty arises in complying the directions, the trial Court is at liberty to approach this Court with appropriate request.



CRL OP(MD). No.17721 of 2023

WEB COPY

8. With this direction and liberty, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition stands closed.

(G I J)
05.10.2023

pnn

To

1. The Vth Additional District Judge, Madurai.
2. The Inspector of Police, Thidirnagar Police Station,
Madurai District, Crime No.251/2022.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



CRL OP(MD). No.17721 of 2023

G.ILANGOVAN, J.

pnn

ORDER
IN
CRL OP(MD). No.17721 of 2023
and
CrI.M.P(MD)No.14031 of 2023

Date : 05.10.2023