



Crl.O.P.(MD)No.17637 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.04.2023**

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.17637 of 2023

Sankaran

... Petitioner/1st Accused

Vs.

The Inspector of Police,
CCIW,
Sivagangai District.
Crime No.2 of 2003.

...Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to the impugned order in Cr.MP.No.9473 of 2022 in CC.No.63 of 2004 on the file of learned Judicial Magistrate No.II, Sivagangai and set aside the same.

For Petitioner : Mr.Mohideen Basha N

For Respondent : Mr.G.Vidhya Maheshwaran

ORDER

This Criminal Original Petition has been filed to call for the records relating to the impugned order in Cr.MP.No.9473 of 2022 in CC.No.63 of 2004 on the file of learned Judicial Magistrate No.II,



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Sivagangai and set aside the same.

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2. P.W.1 was examined in chief on 28.06.2007, but completed only on 24.09.2014. After that all other witnesses have been examined except the Investigation Officer. After that he filed application under Section 311 of Cr.P.C., to recall P.W.1 and P.W.13 for the purpose of cross examination. It was partly allowed. With respect to recalling of P.W.13, it was allowed and so far P.W.1 is concerned, it was dismissed on the ground that no proper reason assigned for delay of eight years in recalling P.W.1. This petitioner cannot take advantage of the marathon chief examination in the trial Court. But the fact remains that if there is no cross examination of material witnesses, fair justice may not be possible. There was no lethargic attitude on the side of the petitioner in cross examining the other witnesses. Even though he missed chance for cross examining P.W.1, the above said delay can be compensated by way of cost. The cost of Rs.10,000/- shall be paid to P.W.1 within a week from the date of receipt of copy of this order either directly or to be deposited in the trial Court. On payment, the trial Court shall fix date for recalling of P.W.1 for further cross examination. The petitioner must



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cross examine the P.W.1 on that date, without fail. If any failure is noticed on the part of the petitioner, his further right will be forfeited forever.

3. With the above said direction, this Criminal Original Petition stands allowed.

04.10.2023

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

Indu

Note: Issue order copy on 05.10.2023

To

- 1.The Judicial Magistrate Court No.II, Sivagangai.
- 2.The Inspector of Police,
CCIW,
Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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G.ILANGO VAN,J.

Indu

Order made in
Crl.O.P.(MD)No.17637 of 2023

Dated: 04.10.2023