



Crl.O.P.(MD)No.17999 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **10.10.2023**

CORAM:

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

Crl.O.P.(MD)No.17999 of 2023

1.Kumar
2.Vanniyan
3.Sornam
4.Sevandhi @ Suganthi
5.Kanniammal

...Petitioners/Accused

Vs.

State through The Inspector of Police,
Sawyerpuram Police Station,
Tuticorin District.
(Crime No.65 of 2016)

...Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to set aside the orders passed in Crl.M.P.No.10586 of 2023 in C.C.No.282 of 2016 dated 27.07.2023 on the file of the learned Judicial Magistrate I, Tuticorin, Tuticorin District.

For petitioners : Mr.KA.Raama Krishnan

For R1 : Mr.M.Vaikkam Karunanithi
Government Advocate (Crl.Side)



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ORDER

This petition has been filed seeking to set aside the order passed in Crl.M.P.No.10586 of 2023 in C.C.No.282 of 2016 dated 27.07.2023 by the learned Judicial Magistrate I, Tuticorin, Tuticorin District

2.The petitioners are facing charges under Sections 147, 294(b), 342, 323 IPC r/w Section 4 of the Tami Nadu Prohibition of Women Harassment Act in C.C.No.282 of 2016 on the file of the learned Judicial Magistrate No.I, Tuticorin, Tuticorin District.

3.The learned counsel for the petitioners submitted that P.W.1 was examined in chief on 03.11.2017. On that date, since the learned counsel for the petitioner before the trial Court was sick, P.W.1 was not cross examined by the petitioners. Thereafter, the case got adjourned and the witnesses were not cross examined. Hence, the petitioners filed a petition seeking to recall P.W.1. But the trial Court without considering the said request, dismissed the petition filed for recalling the witnesses. Hence, the petition prays for allowing this petition.



4.The learned Government Advocate (Crl.side) for the respondent police submits that sufficient opportunity had already been given to the petitioners to cross examine P.W.1, but they did not utilize the same. After lapse of more than five years, the petitioners have filed the petition seeking to recall the witnesses with an intention to drag on the proceedings. Hence, he opposes this petition.

5.Heard both sides.

6.Perusal of the records shows that sufficient opportunity was given to the petitioners for the purpose of cross examining the witnesses. In spite of that, they failed. Even though there is failure and laches on the part of the petitioners, considering the nature of offences facing by the accused, this Court is of the view that one final opportunity may be given to the petitioners on payment of costs, since without cross examining the above said witnesses, fair justice may not be possible.

7.On that ground, this Court is inclined to pass the following order.

1. The order of dismissal passed by the learned Judicial Magistrate No.I, Tuticorin, dated 27.07.2023 in Crl.M.P.No.10586 of 2023 in



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C.C.No.282 of 2016, is hereby set aside.

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2. The petitioners must deposit a sum of Rs.10,000/- (Rupees ten Thousand only) to P.W.1 as costs to the credit of C.C.No.282 of 2016 before the trial Court, within a period of one week from the date of receipt of a copy of this order.
3. On such deposit, the trial Court is directed to recall the witness namely PW1 for cross examination by fixing a particular date. On that date, the petitioners must cross examine the witness without fail. It is made clear that if any failure is noticed, then the further right to cross examine the witnesses will be forfeited.

8. Considering the oldness of the crime and the case is of the year 2016, there shall be a direction to the trial Court to expedite the trial process in this case and conclude the same within a period of three months from the date of receipt of a copy of this order.

9. With the above said directions, this criminal original petition is disposed of. Consequently, connected miscellaneous petition is closed.

10.10.2023

Index : Yes/No
Internet : Yes/No
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To

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



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G.ILANGOVAN. J.

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