



Crl.O.P.(MD) No.18934 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.10.2023

CORAM:

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

Crl.O.P.(MD)No.18934 of 2023
and Crl.M.P.(MD).No.14965 of 2023

P.Jeyaraman

...Petitioner / Petitioner / Sole Accused

Vs.

State rep. by,
The Inspector of Police,
District Crime Branch,
Kanniyakumari District.
(In Crime No.364 of 2017)

...Respondent / Respondent / Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to set aside the order passed by Learned Judicial Magistrate No.1, Nagercoil, Kanniyakumari District in Crl.M.P. No.4442/2020 of C.C. No.176/2011 and to recall the witnesses PW 1 to PW 4 and PW6 & PW 7 for cross examination.

For Petitioner :Mr.G.Anto Prince

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

ORDER

This criminal original petition has been filed to set aside the order passed by Learned Judicial Magistrate No.1, Nagercoil, Kanniyakumari District in



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CrI.M.P. No.4442/2020 of C.C. No.176/2011 and to recall the witnesses PW 1 to PW 4 and PW6 & PW 7 for cross examination.

2.The petitioner is facing charges under Sections 420, 467, 468 and 471 of IPC in Crime No.1 of 2011. The case is of the year 2011. PW1 to PW4 were examined in chief on 31.08.2016 and PW6 & PW7 on 22.07.2019. On the date of chief examination, the learned counsel for the petitioner did not cross examine the above said witnesses. It was adjourned. Seeking recall of the above said persons, application was filed on 21.12.2020, which came to be dismissed by the trial Court on the ground that there is huge delay on the part of the petitioner.

3.The grievance of the petitioner is that without cross examining the said material witnesses, fair justice may not be possible. No doubt there is huge delay and the petitioner was having lethargic attitude during the trial process.

4.Even though the reason set out by the petitioner for non cross examination is not appreciable, considering the fact that the petitioner is facing charges under Sections 420, 467, 468 and 471 of IPC, this Court is of the view



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that without cross examination of the above said witnesses, the fair justice may not be possible. Therefore, in the interest of justice, this Court is inclined to give one more opportunity to the petitioner to recall PW1 to PW4 and PW6 & PW7, So that he can lean evidence to show his defence.

4.On that sole ground, the impugned order passed by Learned Judicial Magistrate No.1, Nagercoil, Kanniyakumari District in Crl.M.P. No.4442/2020 of C.C. No.176/2011, 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 and PW6 & PW7 to the credit of C.C.No.176 of 2011, 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 PW1 to PW4 and PW6 & PW7 for cross examination by fixing particular dates in a scheduled manner. On that dates, the petitioner must cross examine the said witnesses without fail. If



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any failure is noticed, then the further right to cross examine the witness will be forfeited.

Consequently, connected miscellaneous petition is closed.

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

19.10.2023

TM

To

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



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G.ILANGOVA. J.

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