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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2023

CORAM:

THE HON'BLE MR.JUSTICE **G.ILANGOVAN**

CrI.O.P(MD).No.22175 of 2023

and

CrI.M.P(MD) No. 17364 of 2023

1. Chinnathai  
2. Jothimani

... Petitioners

Vs.

The Inspector of Police  
Thiruthangal Police Station,  
Virudhunagar District

... Respondent

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for the records and set aside the order passed in Cr.M.P.No.2240 of 2023 dated 27.09.2023 in S.C.No.112 of 2022 on the file of the Sessions Court(Fast Track Mahila Court) Virudhunagar at Srivilliputhur.

For Petitioners : Mr. C.Ezhilarasu

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 the Sessions Court(Fast Track Mahila Court) Virudhunagar at Srivilliputhur in Cr.M.P.No.2240 of 2023 dated 27.09.2023 in S.C.No.112 of 2022.



2. The learned counsel for the petitioners would submit that the petitioners are accused in S.C.No.112 of 2022 and facing trial for the offences under Section 498(A), 302, 302 r/w.114 of IPC before the trial Court. It is submission of the learned counsel for the petitioner that the petitioners are in custody from the date of arrest. Prosecution side evidence was also over. The petitioners filed an application before the trial Court for the purpose of recalling P.W.21 for the purpose of cross examination with reference to the steps taken by him to examine defence side witness.

3. According to the learned counsel for the petitioners for the purpose of arranging the defence side evidence he was granted interim bail by this Court. He also made all the arrangement but prosecution namely the Inspector of Police threatened the witnesses and prevented them from appearing before the Court. To elicit the above said fact he wanted to recall P.W.21 for cross examination. That came to be allowed by the trial Court on payment of costs of Rs.5000/-. The cost to be paid on or before 04.10.2023, otherwise the petition was ordered to be dismissed automatically.

4. Now according to the learned counsel for the petitioners that none of the relatives are available to take care of trial before the trial Court. They are also ready to pay the cost amount out of the money earned by them from the prison work.



5. Considering the fact that the petitioners are in custody from the date of their arrest and contesting the case from custody the cost imposed on the petitioners is hereby cancelled.

6. Let P.W. 21 be available before the trial court on 18.12.2023 and on that day the petitioners shall cross examine P.W.21 without fail. Let the judgment be not pronounced by the trial Court till the cross examination of P.W. 21 is over.

7. This Criminal Original Petition is allowed based on the above direction. Consequently connected miscellaneous petition is closed.

**07.12.2023**

Internet : Yes / No  
Index : Yes / No  
Speaking / Non Speaking order  
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**Note: Issue order copy on 07.12.2023**

To;

1. The Sessions Court(Fast Track Mahila Court) Virudhunagar at Srivilliputhur.
2. The Inspector of Police  
Thiruthangal Police Station,  
Virudhunagar District
3. The Additional Public Prosecutor  
Madurai Bench of Madras High Court.



**G.ILANGO VAN, J.**

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