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CrI.O.P.(MD)No.22425 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.12.2023**

CORAM:

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

CrI.O.P.(MD)No.22425 of 2023
and CrI.M.P.(MD).No.17527 of 2023

Selvaraj

... Petitioner/Accused

Vs.

The Inspector of Police,
Natham Police Station,
Natham,
Dindigul District.
In Crime No.504 of 2018.

... Respondent/Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records to set aside C.C.NO.46 of 2019 on the file of the District Munsif Cum Judicial Magistrate Court, Natham, Dindigul District.

For Petitioner : Mr.S.P.Naveen Kumar

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor

ORDER

This petition has been filed to set aside the order passed in Cr.M.P.No.1836 of 2023 in C.C.No.46 of 2019 on the file of the District



Munsif Cum Judicial Magistrate Court, Natham, Dindigul District.

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2.The petitioner is facing charges under Sections 379 and 304(A) of IPC in C.C.No.46 of 2019 before the learned District Munsif cum Judicial Magistrate, Natham. On the side of the prosecution, PW1 to PW3 were examined on various dates, even in the year 2020. On the date of chief examination, the learned counsel for the petitioner before the trial Court failed to cross examine the witnesses. Later he filed the petition under Section 311 Cr.P.C. seeking recall of PW1 to PW3 for cross examination. That came to be dismissed by the trial Court stating that there is no proper reason assigned for non cross examination of the witnesses and also finding laches on the part of the petitioner. Challenging the same, the petitioner is now before this Court.

3.No doubt there is laches on the part of the petitioner in cross examination of the witnesses. But the fact remains is that without cross examination of materials witnesses fair justice may not be possible. Therefore, this Court is inclined to give one more opportunity to the petitioner.

4.On that sole ground, the impugned order passed by the learned



District Munsif cum Judicial Magistrate, Natham, Dindigul District, in Crl.M.P.No.1836 of 2023 in C.C.No.46 of 2019, dated 17.10.2023, 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 PW3 to the credit of C.C.No.46 of 2019, 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 P.W.1 to P.W.3 for cross examination by fixing a particular date. On that date, the petitioner must cross examine the above said witnesses without fail. If any failure is noticed, then the further right to cross examine the witness will be forfeited.

Consequently, connected miscellaneous petition is closed.

13.12.2023

Index : Yes/No

Internet : Yes/No

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To

1. The District Munsif cum Judicial Magistrate, Natham, Dindigul District.



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2.The Inspector of Police,
Natham Police Station,
Natham,
Dindigul District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN. J.

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