



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.12.2023

CORAM:

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

Crl.O.P.(MD)No.22495 of 2023
and Crl.M.P.(MD).No.17605 of 2023

Sorimuthu

... Petitioner/1st Accused

Vs.

State rep. by
The Inspector of Police,
Alangulam Police Station,
Tenkasi District.
(Crime No.39 of 2014)

... Respondent/Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records and set-aside the order passed by the learned Additional District and Sessions Judge (FTC), Tenkasi, in Cr.M.P.No.819 of 2023 in S.C.No.324 of 2016 dt.20.11.2023 in respect of dismissing the petition filed by the petitioner under Section 311 Cr.P.C. for examination of PW27 who is the Investigating Officer, within a time frame fixed by this Court.

For Petitioner : Mr.K.Sivabalan

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



ORDER

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This petition has been filed to set aside the order passed by the learned Additional District and Sessions Judge (FTC), Tenkasi, in Cr.M.P.No.819 of 2023 in S.C.No.324 of 2016 dated 20.11.2023.

2.The petitioner is facing charges under Sections 147, 148, 341, 294(b), 302, 301, 506(ii) of IPC in S.C.No.324 of 2016 before the learned Additional District and Sessions Judge (FTC), Tenkasi. On the side of the prosecution, all the witness were examined. The Investigating Officer was also examined in chief on 17.10.2023 as PW27. On that date, there is no cross examination by the petitioner. So it was recorded as no cross examination. Later, he filed the present petition seeking recall of PW27. That came to be dismissed by the trial Court stating that no proper reason was assigned for non cross examination. The reason assigned by the petitioner was not accepted by the trial Court. Challenging the same, the petitioner has come forward with this petition.

3.No doubt there is laches on the part of the petitioner in cross examination of PW27. However, this Court is inclined to give one more opportunity to the petitioner to cross examine PW27, since without cross examination of him, material facts cannot be brought on record.



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4. On that sole ground, the impugned order passed by the learned Additional District and Sessions Judge (FTC), Tenkasi, in Cr.M.P.No.819 of 2023 in S.C.No.324 of 2016 dt.20.11.2023, 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 witness namely PW27 to the credit of S.C.No.324 of 2016, 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 witness P.W.27 for cross examination by fixing a particular date. On that date, the petitioner must cross examine the above said witness 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

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- 1.The Additional District and Sessions Judge (FTC), Tenkasi.
- 2.The Inspector of Police,
Alangulam Police Station,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN. J.

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