



Crl.O.P.(MD)No.22912 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.12.2023

CORAM:

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

Crl.O.P.(MD) No.22912 of 2023
and Crl.M.P.(MD).No.17903 of 2023

1.Manikandaprabhu

2.Hari Kumar

3.Pandiyaraj

4.Maheswaran

... Petitioner/Accused Nos.5,6,12,13

Vs.

The Inspector of Police,
M.Pudhupatti Police Station,
Sivakasi District.
(CrimeNo.46 of 2022)

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to Crl.M.P.No.6031 of 2023, dated 28.11.2023 in S.C.No.129 of 2022 on the file of the learned Principal District and Sessions Judge, Srivilliputtur and set aside the same.

For petitioner : Mr.SMA.Jinnah

For R1 : Mr.R.M.Anbunithi
Additional Public Prosecutor



ORDER

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This criminal original petition has been filed seeking quashment of the proceedings in Crl.M.P.No.6031 of 2023, dated 28.11.2023 in S.C.No.129 of 2022 on the file of the learned Principal District and Sessions Judge, Virudhunagar at Srivilliputtur.

2.This petitioner is facing charges under Sections 341, 324, 302, 120(b), 147, 148, 341, 342, 506(ii), 109 of IPC before the trial Court in S.C.No.129 of 2022 in Crime No.46 of 2022. The trial has commenced. On the side of the prosecution except Investigating Officer and Expert witness, all other independent witnesses have been examined.

3.Already a direction was issued by this Court to expedite the trial and complete the same within a specific time. Pending the trial process and direction, this petitioner filed a petition seeking recall of PWs10, 11, 13, 26, 28, 29, for further cross examination, on the ground that the counsel engaged by the petitioner did not conduct the cross examination properly. He adopted the cross examination conducted by other accused persons. After changing the counsel, he filed the present petition before the trial Court seeking recall of the above said witnesses for cross examination. That came to be dismissed.



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4.The learned counsel for the petitioner would submit that the trial Court without discussing the merits of the petition, stating that already direction was issued to the trial Court to complete the process of trial within the time stipulated by this Court, dismissed the petition. Apart from that it is also stated that cross examination also done by this petitioner in full. It has been further stated that the purpose for further cross examination is not mentioned in the petition.

5.No doubt there is lapse on the part of the petitioner. However, since the petitioner is facing serious charges, this Court is of the considered view that without proper cross examination of the said witnesses, the fair justice may not be possible. Therefore, this Court is inclined to give one more opportunity to the petitioner to recall the above said witnesses for further cross examination.

6.On that sole ground, the impugned order passed in Crl.M.P.No. 6031 of 2023 in S.C.No.129 of 2022 on the file of the learned Principal District and Sessions Judge, Virudhunagar at Srivilliputtur, dated 28.11.2023, is hereby set aside and this criminal original petition is **allowed** with following stringent conditions.



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1) The petitioner must deposit a sum of Rs.5,000/- (Rupees Five Thousand only) as cost to the each of the witnesses namely Pws 10, 11, 18, 23, 26, 28, 29 to the credit of S.C.No.129 of 2022, 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 namely Pws 10, 11, 18, 23, 26, 28, 29 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.

3) The trial process be completed by the trial Court within a period of **three** months.

4) The petitioner must co-operate with the trial court to complete the trial process within the stipulated time.

Consequently, connected miscellaneous petition is closed.



CrI.O.P.(MD)No.22912 of 2023

20.12.2023

Index : Yes/No

Internet : Yes/No

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Note: Issue order copy on 21.12.2023.

To

1.The Principal District and Sessions Judge, Virudhunagar at
Srivilliputtur.

2.The Inspector of Police,
M.Pudhupatti Police Station,
Sivakasi 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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