



WEB COPY



CrI.O.P.(MD)No.23126 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.12.2023**

CORAM:

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

CrI.O.P.(MD) No.23126 of 2023

and

CrI.M.P(MD) No.18001 of 2023

Kumar

... Petitioner/2nd Accused

Vs.

The Inspector of Police,
Alangulam Police Station,
Alangulam,
Tenkasi District.
Crime No.385/2015.

...Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records of the learned Additional District Sessions Judge (FTC), Tenkasi, in Cr.M.P.No.865 of 2023 in S.C.No.173 of 2016 and set aside the order, dated 27.11.2023.

For Petitioners : Mr.Mathavaselvam.R

For Respondent : Mr.R.M.Anbunithi,
Additional Public Prosecutor (CrI.Side)

ORDER

This petition has been filed seeking to call for the records of the learned Additional District Sessions Judge (FTC), Tenkasi, in Cr.M.P.No. 865 of 2023 in S.C.No.173/2016 and set aside the order, dated 27.11.2023.



2.The petitioner is facing charges under Sections 34, 341, 294(b), 302 and 506(ii) IPC in S.C.No.176 of 2016. The matter is of the year 2016. P.W.19, the Investigating officer, is examined in chief on 17.10.2023. On the date of chief examination, the petitioner failed to cross examine the Investigation officer. Later, he filed an application to recall of Investigation Officer, before the concerned Court, but it came to be dismissed, stating that no proper reason is assigned.

3. No doubt that unless P.W.19 is cross examined, the material facts for the offences may not be brought on record and a fair judgment may not be possible. On the sole ground, one more opportunity is given to the petitioner on stringent condition. The petitioner is directed to pay Rs.5,000/- (Five Thousand Only) as cost before the trial Court. On such payment, the trial Court may fix the date for cross examine the witness. On that date the petitioner must cross examine the witness without fail. If any failure is noticed on the part of the petitioner, his further right will be forfeited forever.



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4. With the above said direction, this Criminal Original Petition stands allowed. Consequently, connected Miscellaneous Petition is closed.

21.12.2023

NCC :Yes/No

Index :Yes/No

Internet :Yes/No

Indu

To

1.Additional District Sessions Court (FTC), Tenkasi.

2.The Inspector of Police,
Alangulam Police Station,
Alangulam,
Tenkasi District.

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



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G.ILANGOVA. J.

Indu

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