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Crl.O.P.(MD)No.23086 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.12.2023**

CORAM:

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

Crl.O.P.(MD) No.23086 of 2023

Martin Fernando

... Petitioner/Petitioner/Accused

Vs.

The Inspector of Police,
Cantonment Police Station,
Trichy District.
Crime No.400 of 2022

...Respondent/Respondent/
Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to set aside the order passed by the learned Judicial Magistrate No.II, Tiruchirappalli District, dated 20.11.2023 made in Cr.M.P.No. 36401 of 2023 and further direct the learned Judicial Magistrate No.II, Tiruchirappalli District, to reopen and recall the witnesses P.W.1 and P.W. 2 and cross examine them in the interest of justice.

For Petitioners : Mr.Arunraj K

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



ORDER

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This petition has been filed seeking to set aside the order passed by the learned Judicial Magistrate No.II, Tiruchirappalli District, dated 20.11.2023 made in Cr.M.P.No.36401 of 2023 and further direct the learned Judicial Magistrate No.II, Tiruchirappalli District, to reopen and recall the witnesses P.W.1 and P.W.2 and cross examine them in the interest of justice.

2.The petitioner is facing charges under Sections 294(b), 324, 506(ii) IPC before the trial Court in C.C.No.859 of 2022. On the side of the prosecution, P.W.1 and P.W.2 were examined in chief. On the date of chief examination, the petitioner failed to cross examine the witnesses for unknown reasons. Seeking recall of P.W.1 and P.W.2, he filed a petition before the concerned Court in Cr.M.P.No.36401 of 2023, but it came to be dismissed by the order dated 20.11.2023, stating that no proper reasons were assigned.

3. At the fag end of trial process, this petition came to be filed. Even though there is delay on the part of the petitioner to recall P.W.1 and P.W.2, the petitioner is facing charges under Sections 294(b), 324, 506(ii) IPC before the learned Judicial Magistrate No.II, Tiruchirappalli



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District. Unless the injured witnesses are cross-examined, the fair justice may not be possible. On the sole ground, one more opportunity may be given to the petitioner on stringent condition. The petitioner is directed to pay Rs.5,000/- (Five Thousand Only) to P.W.1 and P.W.2 each as cost before the trial Court. On such payment, the trial Court may fix the date for cross examine the witnesses. On that date the petitioner must cross examine the witnesses without fail. If any failure is noticed on the part of the petitioner, his further right will be forfeited forever.

4. With the above said direction, this Criminal Original petition stands allowed.

21.12.2023

NCC :Yes/No
Index :Yes/No
Internet :Yes/No
Indu

To

- 1.The learned Judicial Magistrate No.II, Tiruchirappalli.
- 2.The Inspector of Police,
Cantonment Police Station,
Trichy District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN. J.

Indu

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