



Criminal Original Petition No.3840 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 21.02.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**

**Criminal Original Petition No.3840 of 2024**

Ajithkumar  
S/o.Manikandan

... Petitioner

Vs.

State represented by  
Inspector of Police,  
Tiruchengode Town Police.  
Crime No.250 of 2022

... Respondent

**Prayer:** Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to set aside the order passed in CrI.M.P.No.4586 of 2023 in C.C.No.106 of 2022 dated 29.12.2023 on the file of Judicial Magistrate, Tiruchengode.

For Petitioner : Ms.K.Komala

For Respondents : Mr.A.Damodaran  
Additional Public Prosecutor

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**ORDER**



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This Criminal Original Petition has been filed challenging the order passed by the Court below in CrI.M.P.No.4586 of 2023 in C.C.No.106 of 2022 dated 29.12.2023, dismissing the application filed u/s.311 Cr.P.C. to recall PW-1 to PW-7 for cross-examination.

2. Heard Ms.K.Komala, learned counsel for petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor appearing for respondent.

3. The petitioner (A1) is facing trial before the Court below for offence u/s.379 IPC. The petitioner was arrested and remanded to judicial custody and he continues to be in judicial custody till date. PW-1 to PW-7 were examined on the side of prosecution from 28.08.2023 to 11.09.2023. During this period, there was no counsel appearing on behalf of the petitioner (A1) and therefore, no cross-examination was done on the side of the petitioner (A1). It is brought to the notice of this Court that a legal aid counsel was appointed for the petitioner on 25.09.2023. After appointment of such counsel, an application came to be filed in CrI.M.P.No.4586 of 2023 to recall PW-1 to PW-7 for cross-examination.



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This application was dismissed by the Court below by an order dated 29.12.2023. Aggrieved by the same, the present petition has been filed.

4. Taking into consideration the facts and circumstances of the case and also the fact that the petitioner is facing a very serious charge and the legal aid counsel was appointed for the petitioner only on 25.09.2023 and the petitioner continues to be inside the prison and was not able to engage a counsel, this Court is inclined to grant an opportunity to the petitioner to recall PW-1 to PW-7 for cross-examination.

5. In the light of the above discussion, the order passed by the Court below in Crl.M.P.No.4586 of 2023 in C.C.No.106 of 2022 dated 29.12.2023 is hereby set aside. The Court below is directed to recall PW-1 to PW-7 and it is made clear that these witnesses shall be cross-examined on the date of their appearance and the cross-examination shall be completed on the same day. If, for any reason, the witnesses are not cross-examined on the date of their appearance, the petitioner will lose his right to recall the witnesses in future.

**N.ANAND VENKATESH, J**



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This Criminal Original Petition is allowed with the above direction.

**21.02.2024**

Speaking Order/Non-speaking Order

Index :Yes/No

Neutral citation: Yes/No

gm

To

1.The Judicial Magistrate,  
Tiruchengode.

2.The Inspector of Police,  
Tiruchengode Town Police.  
Crime No.250 of 2022

3.The Public Prosecutor,  
High Court, Madras.

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