



CrI.O.P.No.2244 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No.2244 of 2024

R.Suriya
S/o.Ravichandran

... Petitioner

Vs.

State by
Inspector of Police,
Peelamedu Police Station.
Crime No.1036 of 2019

... Respondent

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to set aside the order in CrI.M.P.No.7056 of 2023 in S.C.No.1 of 2020 dated 22.12.2023 passed by learned I Additional District and Sessions Judge, Coimbatore and direct the learned I Additional Judge to permit the recall of PW-15 Mr.Thamodharan for the purpose of cross-examination.

For Petitioner : Mr.D.Anantha Padmanabhan

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

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This petition has been filed challenging the order passed by the Court below in C.M.P.No.7056 of 2023 dated 22.12.2023, dismissing the application filed u/s.311 Cr.P.C. to recall PW-15 for cross-examination.

2. The petitioner is facing trial before the Court below for offence u/s.302 IPC. Earlier, when PW-15 was examined in chief, he was not cross-examined on the side of the petitioner. Thereafter, the petitioner filed an application in C.M.P.No.2126 of 2023 to recall some of the witnesses which also included PW-15. However, when PW-15 was present before the Court, the petitioner failed to cross-examine PW-15. Therefore, the evidence of PW-15 was closed. Subsequently, the questioning u/s.313 Cr.P.C. has been completed and the case was at the stage of examination of defence witnesses. At that stage, the present application came to be filed to recall PW-15 for cross-examination. The Court below dismissed the said application by an order dated 22.12.2023. Aggrieved by the same, the present petition has been filed before this Court.



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3. Heard Mr.D.Anantha Padmanabhan, learned counsel for petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor appearing for respondent.

4. It is brought to the notice of this Court that the case is now posted before the Court on 14.02.2024 for examination of defence witness. Considering the facts and circumstances of the case and also considering the fact that the petitioner is facing a serious charge, this Court is inclined to give one last opportunity to the petitioner to cross-examine PW-15 on terms.

5. In the light of the above discussion, the order passed by the Court below in C.M.P.No.7056 of 2023 dated 22.12.2023 is hereby set aside. PW-15 shall be present before the Court below on 14.02.2024. On that day, the petitioner shall pay a cost of Rs.5,000/- [Rupees Five Thousand only] to PW-15. On the same day, PW-15 shall also be cross-examined. If, for any reason, the petitioner fails to cross-examine PW-15 on the date of his appearance, the petitioner will loose his right to recall PW-15 in future.

N.ANAND VENKATESH, J



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gm

This Criminal Original Petition is allowed with the above direction.

07.02.2024

Speaking Order/Non-speaking Order

Index :Yes/No

Neutral citation: Yes/No

gm

To

1.The I Additional District and Sessions Judge,
Coimbatore.

2.The Inspector of Police,
Peelamedu Police Station.
Crime No.1036 of 2019

3.The Public Prosecutor,
High Court, Madras.

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