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Crl.OP.No. 8233 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.OP.No.8233 of 2024

G.Manickam

... Petitioner

Vs.

1. The Inspector of Police,
F-2, Sipcot Police Station,
Gummidipoondi,
Thiruvallur District.
2. Odaivasu
3. Radha Manavalan
4. Venkatesan
5. Janakiraman

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, prayed to set aside the order passed in C.M.P.No.3634 of 2023 in C.C.No.238 of 2022 dated 07.02.2023 on the file of the District Munsif-Cum-Judicial Magistrate, Gummidipoondi.

For Petitioner : Mr.S.Senthilvel

For Respondents : S.Udaya Kumar
Government Advocate (Crl.Side)



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ORDER

WEB COPY This petition is filed by the victim in Cr.No.389 of 2021 which is taken cognizance by the learned District Munsif-Cum-Judicial Magistrate, Gummidipoondi in C.C.No.238 of 2022. The present petition is filed being aggrieved by the order passed by the trial court to recall P.W.1, P.W.2 and P.W.3 at the behest of the accused persons was filed petition under Section 311 of Cr.P.C.

2. It is contended that to drag on the proceedings, the accused did not cross examine these witnesses when they were present and deposed in chief. Neither the petition nor cross filed. Thereafter, the present petition to recall these witnesses been filed under Section 311 of Cr.P.C to harass them and to protract the proceedings. Therefore, the order passed by the Court allowing the petition on condition to pay a cost of Rs.500/- has to be set aside.

3. The learned Government Advocate (Crl.side) states that the examination of three witnesses P.W.1 to P.W.3 was done on 30.06.2023, 07.08.2023 and 29.03.2023 respectively. At that time, it was reported that no cross. Thereafter, the petition to recall been filed. The trial court



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after hearing both sides in order to approach fair opportunity to the petitioner to defend the case and effective adjudication. The petition to recall was allowed on payment of cost of Rs.500/- to each witness on the day of examination.

4. To avoid abuse of law, this Court is of the view that there is no necessity to interfere in the order passed by the trial court which has been passed taking note of the fact that there must be a fair opportunity to the accused persons. At the same time, it should not be used as a tool to protract the proceedings or to harass the witnesses and therefore, on the next hearing date whether summons received or not in three witnesses are present before the trial court and on the same day after paying the costs, the respondent shall cross examine all the three witnesses. The trial court shall not adjourn the matter for any other reasons without recording the cross examination of three witnesses. If the accused failed to avail this opportunity, the trial Court need not entertain any further application to recall the witnesses.

5. With the above directions, this Criminal Original Petition is disposed of.

Vv

03.04.2024



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To

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1. The District Munsif-Cum-Judicial Magistrate,
Gummidipoondi.
2. The Inspector of Police,
F-2, Sipcot Police Station,
Gummidipoondi,
Thiruvallur District.
3. The Public Prosecutor,
High Court of Madras,
Chennai.



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Dr.G.JAYACHANDRAN,J.

Vv

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