



Crl.O.P.No.6669 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2024

CORAM

THE HON'BLE MR.JUSTICE VIVEK KUMAR SINGH

Crl.O.P.No.6669 of 2024

The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Kancheepuram.
Crime No.21/2009

... Petitioner

Vs.

T.Thangaraj

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, pleaded to set aside the order dated 01.02.2024 made in Crl.M.P.No.178 of 2024 in Spl.C.No.3 of 2011 on the file of the learned Judicial Magistrate, Chengalpet and allow this petition.

For Petitioner : Mr.S.Santhosh
Government Advocate (Criminal Side)

For Respondent : Mr.P.Ezhil Nilavan



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ORDER

The Criminal Original Petition has been filed seeking to set aside the order dated 01.02.2024 made in CrI.M.P.No.178 of 2024 in Spl.C.No.3 of 2011 on the file of the learned Judicial Magistrate, Chengalpet and to allow this petition.

2. Learned Government Advocate (crl.side) submitted that the respondent/accused has filed a petition in CrI.M.P.No.178 of 2024 under Section 311 Cr.P.C to recall P.W.1 to P.W.3 and P.W.5 to P.W.11 for further cross examination, only at the fag end of trial. He further submitted that the only ground raised by the accused before the trial Court is that change of defence counsel, due to health issues. Thereafter, new counsel was appointed and the new counsel stated that the previous counsel had not asked relevant important questions in a proper manner to establish the ownership of the cell phone and its sim card. But P.W.4 and P.W.5 were already examined and cross examined by the accused regarding ownership of the cell phone of the accused. Therefore, there is no necessity to file the recall petition and this petition may be allowed by setting aside the order of the trial Court.



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3. The learned counsel for the respondent /accused initially filed a counter and submitted that during the course of trial, after cross examination of all the witnesses, the defence had obtained certain vital documents by way of RTI. Therefore, the defence has filed a petition under Section 311 Cr.P.C for further cross examination of P.W.1 to P.W.3 and P.W.5 to P.W.11. The learned trial Judge, after carefully perusing all the documents, had allowed the petition on condition to pay a sum of Rs.5,000/- for each witnesses. The petitioner is ready to pay the said sum of Rs.5,000/- for each witnesses and hence, this petition may be dismissed.

4. Today, the learned counsel for the respondent/ accused filed an additional counter affidavit and restricted his claim for recalling only 4 witnesses namely, P.W.1, P.W.5, P.W.10 and P.W.11 and also undertook that he will cross examine all the witnesses on the same day, without seeking any adjournments.

5. Heard the learned Government Advocate (Crl.Side) and the learned counsel for the respondent /accused and also perused the materials available on



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6. Taking into consideration of the facts and circumstances of the case and the submissions made by the learned counsel on either side, this Court directs the learned Special Judge/ Chief Judicial Magistrate, Kanchipuram, to recall P.W.1, P.W.5, P.W.10 and P.W.11 and pass appropriate orders in accordance to law. The learned Magistrate is also directed to complete the trial within a period of two months from the date of receipt of a copy of this order.

7. With the above direction, the Criminal Original Petition stands disposed of.

29.07.2024

Index : Yes / No
Speaking / Non-speaking
Neutral Citation : Yes / No
vkr

To

1. The Chief Judicial Magistrate, Kanchipuram.
2. The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Kancheepuram.
3. The Public Prosecutor,

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High Court of Madras.

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VIVEK KUMAR SINGH, J.

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