



WEB COPY



Crl.OP.No.8805 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.OP.No.8805 of 2024

and

Crl.MP.No.6318 of 2024

R. Kandasami

... Petitioner

Vs.

The State Rep.by Inspector of Police,
The Inspector of Police
Wellington Police Station
Nilgiris District
(Cr.No.439 of 2017)

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in Crl.MP.No.17 of 2024 in CC.No.39 of 2018 on the file of the learned Judicial Magistrate, Coonoor, and set aside the Order dated 11.03.2024 therein.

For Petitioner : Mr.R.Shreerangan

For Respondent : Mr.S.Udayakumar
Government Advocate (Crl.Side)



Crl.OP.No.8805 of 2024

ORDER

This Criminal Original Petition is filed by the petitioner to set aside the order of dismissal passed by the learned Judicial Magistrate, Coonoor in Crl.MP.No.17 of 2024 in CC.No.39 of 2018.

2. The petition to re-call the Investigating Officer who was examined as P.W.10, dismissed by the trial Court on the ground that the petition to re-call does not disclose the reason why the witness to be re-called. Now, before this Court, the learned counsel appearing for the petitioner states that the copy of the Section 161 Statement recorded by the Investigating Officer indicates that the said statement was recorded on 02.10.2017, whereas Investigating Officer has signed in the statement with date as "01.10.2017" which would show that the statement was not recorded in the manner in which the Investigating Officer has deposed before the Court. Therefore, the same has to be confronted with the Investigating Officer which was omitted during the cross examination, when the Investigating Officer was present on 28.07.2023.

3. Since some vital omissions been pointed out which will be very crucial for the court to decide the case, the order of the trial court



Crl.OP.No.8805 of 2024

dismissing the application under Section 311 of Cr.P.C is set aside. The application to re-call P.W.1 is allowed.

4. The trial Court shall summon P.W.10 and the accused shall cross examine without fail on the day the witness is present. No adjournments shall be granted for any other reasons without cross examining P.W.10 .

5. With the above directions, this Criminal Original Petition is disposed of. Consequently, the connected miscellaneous petitions are closed.

Vv

23.04.2024

To

1. The Judicial Magistrate,
Coonoor
2. The Inspector of Police
Wellington Police Station
Nilgiris District
3. The Public Prosecutor,
High Court of Madras,
Chennai.



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Dr.G.JAYACHANDRAN,J.

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