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Crl.O.P.No. 19666 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 14.08.2024**

CORAM

**THE HON'BLE DR. JUSTICE G.JAYACHANDRAN**

**Crl.O.P.No. 19666 of 2024**

**And**

**Crl.M.P.No. 11505 of 2024**

A.V.Sekar

... Petitioner/Petitioner/Accused

**Vs.**

The State rep. By  
The Inspector of Police  
District Crime Branch Police Station  
Villupuram.

... Respondent/Respondent/  
Complainant

**PRAYER:** Criminal Original Petitions filed under Section 528 of B.N.S.S, pleaded to call for records and set aside the order dated 05.08.2024 made in Crl.M.P.No. 1152 of 2024 in C.C.No. 111 of 2020 on the file of the District Munsif cum Judicial Magistrate, Vikravandi.

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For Petitioners : Mr. T.Elumalai

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



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## **ORDER**

This petitioner herein is the sole accused in C.C.No. 111 of 2020 for the charges under Sections 406 and 420 of IPC. After examination of 14 witnesses, the prosecution has closed and the matter is posted for 313 questions and at that stage, the accused has taken out application to recall PW-1 to PW-9 on the ground that his earlier counsel has not examined the witness and the same was not informed to him and therefore, he is changed his counsel and new counsel is to cross examine the witness by recalling. The trial Court has found that the reasons stated not satisfactory.

2. On 29.02.2024, PW-1 to PW-3 were examined on 21.03.2024, PW-4 to PW-8 were examined on 28.03.2024, PW-9 to PW-13 were examined and on 02.04.2024 PW-14 was examined. The dates of examining these witnesses, opportunity given to the petitioner to cross examine the witness but the petitioner/accused has failed to cross examine them. The reason for non cross exam further is not satisfactory and its a willful failure on the part of the accused to cross examine with an intention to prolong the trial.



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3. This Court is not find any perversity in the observation made by the learned District Munsif cum Judicial Magistrate, Vikravandi. This order is squarely impugned with the dictum laid down by the Hon'ble Supreme Court in *Vinod Kumar Vs. State of Punjab* reported in **(2015) 3 SCC 220**.

4. The learned counsel for the petitioner submits that for the inconvenience caused to the witnesses and the Court, he is ready to pay the substantial cost so as to exercise his right to cross examine all these witnesses since he is facing serious offence of cheating and criminal breach of trust.

5. Taking into consideration, to afford an opportunity to the petitioner/accused, who has unreasonably failed to cross examine the witness / marshall by the prosecution, a cost of Rs.13,500/- is imposed which shall be deposited in the account of C.C.No. 111 of 2020 on or before 29.08.2024. On such deposit, PW-1 to PW-9 can be recalled and witness cost of Rs.1,500/- each shall be disbursed to them from the money deposited by the petitioner. If the petitioner fails to deposit a sum of Rs.13,500/- on or before 29.08.2024, he will lose the opportunity to recall the witnesses and the trial Court shall proceed further in accordance with law.



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**Dr.G.JAYACHANDRAN, J.**

vsg

6. With the above direction, this Petition stands allowed.

Consequently, connected Miscellaneous Petition stands closed.

**14.08.2024**

vsg

To

1. The Inspector of Police  
District Crime Branch Police Station  
Villupuram.
2. The Public Prosecutor,  
High Court of Madras.

**Crl.O.P.No. 19666 of 2024  
And  
Crl.M.P.No. 11505 of 2024**