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Crl.O.P.No.21043 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:02.09.2024

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.O.P.No.21043 of 2024

Sekar

.. Petitioner

/versus/

The State rep.by
Inspector of Police,
Verayur Police Station,
Thiruvannamalai.

.. Respondent

Criminal Original Petition has been filed under Section 482 of Cr.P.C.,to set aside the order passed in Crl.M.P.No.3055 of 2023 in C.C.No.96 of 2022, dated 16.05.2023 on the file of the Judicial Magistrate No.1, Thiruvannamalai and set aside the same and further provide the opportunity to the petitioner to cross examine PW-1 to 4 to arrive a just decision of the case.

For Petitioner	:Mr.R.Subramaniyan
For Respondent	:Mr.S.Udayakumar
	Govt.Advocate (Crl.Side)



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ORDER

The petitioner herein, being aggrieved by the dismissal order passed in Crl.M.P.No.3055 of 2023 in C.C.No.96 of 2022 filed under Section 311 of Cr.P.C, has filed this petition to set aside the order and give an opportunity to recall and cross examine the witnesses.

2. The petitioner herein stands charged for the offences under Sections 279 and 304(A) of IPC. In the commencement of the trial he has not examined the prosecution witnesses PW-1 to PW-4. Subsequently, he has filed a petition to recall the witnesses PW-1 to PW-4. The trial Court, after considering the reason stated in the recall petition and the guidelines of the Hon'ble Supreme Court in [*Vinodh Kumar v. State of Punjab (CDJ 2015 SC 115)*], has recorded that the pleader of an accused engaged in another court shall not be a ground for recalling the witnesses. However, this excuse can be for one witness, but not for all the four witnesses, who appeared on different dates. Therefore, recording that the witnesses must be cross examined on the date of chief examination itself and they cannot be compel to appear before the Court again and again at the whims and fancies of the accused. This Court finds no perversity in



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the said order. Hence, this Criminal Original Petition stands dismissed.

02.09.2024

Index:yes/no
Neutral citation:yes/no
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To:

- 1.The Judicial Magistrate No.1, Thiruvannamalai.
- 2.The Inspector of Police, Verayur Police Station, Thiruvannamalai.
- 3.The Public Prosecutor, High Court, Madras.

DR.G.JAYACHANDRAN,J.

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