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CrI.O.P.No.29630 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2024

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.O.P.No.29630 of 2024

and

CrI.M.P.No.16581 of 2024

R.Uma Sankar

... Petitioner

Vs.

State By:

The Sub Inspector of Police,
Vellore Taluk Police Station,
Vellore, Crime No.297 of 2019.

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 BNSS, 2023, to set aside the order dated 08.08.2024 made in Cr.M.P.No.8926 of 2024 in C.C.No.115 of 2020 by the learned Judicial Magistrate No.1, Vellore dismissing the petition filed by the petitioner under Section 311 Cr.P.C to recall L.W.2, L.W.4 to L.W.6, who were examined as P.Ws.2 to 5 and consequently, permit the petitioner to cross-examine the prosecution witnesses P.W.2 to P.W.5.

For Petitioner : Mr.S.Sathia Chandran

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor



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ORDER

This Criminal Original Petition has been filed challenging the order of dismissal of the petitioner's petition before the trial Court for re-call of L.W.2, L.W.4 to L.W.6, who were examined as P.Ws.2 to 5 for cross examination.

2. The learned Magistrate has dismissed the said petition in Cr.M.P.No.8926 of 2024 in C.C.No.115 of 2020 on the ground that, inspite of sufficient opportunities having been granted to the petitioner to cross examine the prosecution side witnesses, but he failed to cross examine the witnesses on the same day of their chief examination and no valid reason has been stated in the petition. The learned Magistrate also observed in the impugned order that the member of the local Bar Association unnecessarily boycotted the Court and caused inconvenience to the litigants, despite witnesses were present and were examined in chief and due to absence of the defence counsel, the witnesses were not cross examined. The learned Magistrate also made an observation that boycotting the Court by the Advocates is illegal and



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amounts to professional misconduct as per the decision of the Hon'ble Supreme Court.

3. Due to boycott by the counsel, the parties should not suffer at the same time and due to non-cooperation of the litigants and counsel, the witnesses should not be made to drag on the matter, just because they have been cited as a witness and without fault on their part, they cannot be dragged on.

4. Considering the facts and circumstances and also in the interest of justice, the petitioner herein can be given one more opportunity to cross examine the witnesses on payment of costs. Hence, the petition is allowed and the petitioner can recall the witnesses i.e., L.W.2, L.W.4 to L.W.6 on payment of costs of Rs.2,000/- (Rupees Two Thousand) for each one of the witnesses. The petitioner shall deposit a sum of Rs.8,000/-(Rupees Eight Thousand) to the credit of C.C.No.115 of 2020 on the file of Judicial Magistrate Court No.I, Vellore. On payment of the said amount of Rs.8,000/-, L.W.2, L.W.4 to L.W.6 can be re-called and re-examined in cross. On the appearance of L.W.2, L.W.4 to L.W.6, the trial Court shall disburse the said amount i.e., each Rs.2,000/- to the



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witnesses. In default to deposit the said amount, this petition shall stand dismissed automatically without any further reference to this Court.

5. The learned Magistrate is directed to expedite the trial and dispose of the C.C.No.115 of 2020 itself on merits and in accordance with law, within a period of two months from the date of receipt of a copy of this order.

6. With the above directions, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

26.11.2024

Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No
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To

1. The Judicial Magistrate No.1,
Vellore.
2. The The Sub Inspector of Police,
Vellore Taluk Police Station,
Vellore.
3. The Public Prosecutor,
High Court, Madras.



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P.VELMURUGAN, J

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