



CrI.O.P.No.30497 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.12.2024

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.O.P.No.30497 of 2024

and

CrI.M.P.No.17311 of 2024

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Loganathan

.. Petitioner

Vs.

The State, rep. by the
Inspector of Police,
Vazhapandal Police Station,
Ranipet District.
(Crime No.90/2014)

.. Respondent

Criminal Original Petition filed under Section 528 of the BNSS, 2023 praying to set aside the order passed by the Judicial Magistrate No.III, Vellore, Vellore District in CrI.M.P.No.305 of 2024 in S.C.No.107 of 2024, dated 13.09.2024.

For petitioner : Mr.E.Kannadasan

ORDER

The petitioner has filed the present petition praying to set aside the order passed by the Judicial Magistrate No.III, Vellore, Vellore District in CrI.M.P.No.305 of 2024 in S.C.No.107 of 2024, dated 13.09.2024.

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2. The petitioner/accused has filed Crl.M.P.No.918 of 2023 in S.C.No.54 of 2016 under Section 311 Cr.P.C. for recalling P.Ws.1, 2, 4, 6, 7, 8 and 9, to cross-examine. During the pendency of the above said Crl.M.P., the case was transferred to the Principal Sessions Court, Ranipet, Ranipet District, and the new case number in Crl.M.P.No.305 of 2024 (in S.C.No.107 of 2024) was assigned. The said Crl.M.P. was dismissed on 13.09.2024, stating that already, twice the petition for recall was filed by the petitioner and the recall petition was allowed and witnesses have also appeared, but the petitioner did not cross-examine the above said witnesses. As against the said order dated 13.09.2024, the present petition is filed before this Court.

3. Since the case is at the stage of questioning the accused under Section 313 Cr.P.C., and even though the petitioner was given sufficient opportunity, he failed to avail the opportunity. The petitioner has purposefully evading the case and is protracting the trial. The reasons stated in the petition for recalling the said witnesses, are not satisfactory. However, in the interest of justice and in order to given an opportunity to the petitioner/accused to take defence by cross-examining the witnesses, the said recall petition shall stand allowed, subject to the condition that the petitioner/accused shall pay a sum of Rs.2,500/- (Rupees two thousand and five hundred only) to each witnesses, i.e. P.Ws.1, 2, 4, 6, 7, 8 and 9 and the said amount shall be deposited on or before 18.12.2024 before the trial Court and on such deposit, the trial Court is directed to issue summons

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to the said witnesses to cross-examine the said witnesses and an opportunity be given to the petitioner/accused to cross-examine the said witnesses and when the witnesses are present, the petitioner/accused should not seek further time and the petitioner/accused has to cross-examine on the same day when the witnesses are present. On appearance of the said witnesses, i.e. P.Ws.1, 2, 4, 6, 7, 8 and 9 before the trial Court, the trial Court is directed to disburse the said amount of Rs.2,500/- paid by the petitioner to the witnesses, i.e. P.Ws.1, 2, 4, 6, 7, 8 and 9, who are to be recalled.

4. With the above direction, this petition is disposed of. Consequently, Crl.M.P.No.17311 of 2024 is closed.

12.12.2024

CS

Office to note:

Issue order copy by 17.12.2024

CS/-

To

1. The Judicial Magistrate No.III, Vellore, Vellore District.
2. The Public Prosecutor, High Court, Madras.
3. Inspector of Police,
Vazhapandal Police Station,
Ranipet District.
(Crime No.90/2014)

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P.VELMURUGAN, J

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