



Crl.O.P.No.31839 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.12.2024

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.31839 of 2024

and

Crl.M.P.No.18135 of 2024

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Tr.Raja

.. Petitioner

Vs.

The State Rep. by
Station House Officer,
Thirukovilur Police Station,
Kallakurichi District.
(Crime No.724 of 2018)

.. Respondent

Criminal Original Petition filed under Section 528 of B.N.S.S., 2023
praying to set aside the order dated 10.09.2024 in Crl.M.P.No.2860 of 2024
in C.C.No.120 of 2020 on the file of Judicial Magistrate Court, Thirukoilur,
Kallakurichi District and allow the Criminal Original Petition.

For petitioner : Mr.C.Prabakaran

For respondent: Mr.S.Sugendran, Addl.P.P.

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ORDER

The petitioner has filed the present petition seeking to set aside the order dated 10.09.2024 in Crl.M.P.No.2860 of 2024 in C.C.No.120 of 2020 on the file of Judicial Magistrate Court, Thirukoilur, Kallakurichi District and allow the Criminal Original Petition.

2. Though the petitioner has filed a petition under Section 311 Cr.P.C. for recalling of the witnesses P.Ws.1 to 5, learned counsel for the petitioner submitted that due to inadvertent circumstances, P.Ws.1 to 5 were not able to be examined, even though the trial Court gave one chance and the petitioner could not make use of that chance also. But however, in the interest of justice, learned counsel for the petitioner seeks one more opportunity for cross-examining P.Ws.1 to 5.

3. Hence, in the interest of justice, the impugned order dated 10.09.2024 passed in Crl.M.P.No.2860 of 2024 in C.C.No.120 of 2020 on the file of the Judicial Magistrate, Thirukovilur, Kallakurichi District, is



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hereby set aside. However, the said witnesses cannot be made to run from pillar to post under the guise of tendering evidence for their own purpose, but the witnesses need not be made to suffer.

4. Therefore, in the above circumstances, this petition is allowed and the petitioner/accused is directed to deposit Rs.10,000/- (Rupees ten thousand only) by way of costs before the trial Court on or before 02.01.2025 and on such deposit, the learned trial Judge is directed to issue summons to P.Ws.1 to 5 for the purpose of cross-examination of P.Ws.1 to 5 and the learned trial Judge is directed to disburse the said costs of Rs.10,000/- to the witnesses P.Ws.1 to 5 (each Rs.2,000/-) and get acknowledgement from P.Ws.1 to 5. The trial Court is directed to send a copy of acknowledgement for receipt of Rs.2,000/- each to P.Ws.1 to 5, to this Court. Failing to deposit the costs, the petition filed under Section 311 Cr.P.C. shall stand dismissed automatically, without any further reference to this Court. On such payment of the costs, the trial Court is directed to proceed further for trial in accordance with law. Consequently, Crl.M.P. is closed.

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Office to note: Issue order copy on or before 21.12.2024

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To

1. Judicial Magistrate, Thirukovilur, Kallakurichi District.
2. The Public Prosecutor, High Court, Madras.
3. The Station House Officer, Thirukovilur Police Station,
Kallakurichi District.
(Crime No.724 of 2018)

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P.VELMURUGAN, J

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