



Crl.O.P.(MD)No.1098 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.11.2024

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD) No.1098 of 2023

Thirupathi

... Petitioner

Vs.

The Inspector of Police,
Veeracholan Police Station,
Virudhunagar District.
Crime No.12 of 2022

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the order passed in Crl.MP.No.4645 of 2022, dated 14.12.2022, on the file of the learned District Munsif cum Judicial Magistrate, Thiruchuli, Viruthunagar District and set aside the same as illegal.

For Petitioner : Mr.S.Ayyanar Prem Kumar

For Respondents : Mr.B.Thanga Aravindh
Government Advocate (Crl.Side)



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ORDER

This petition has been filed challenging the order passed by the Court below dismissing the application filed by the petitioner under Section 311 of Cr.P.C. to recall P.W.1 for further examination.

2. Heard the learned counsel for the petitioner and the learned Government Advocate appearing on behalf of the respondent.

3. The petitioner is facing trial before the Court below for offences under Sections 452, 354(b), 506(i) and 509 of IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women (Amendment) Act, 2002. The prosecution examined P.W.1 and she was also cross examined on the side of the petitioner on the same date. The evidence of P.W.1 was closed on 18.10.2022. Immediately thereafter, the petitioner filed an application seeking for recall of P.W.1 for further cross examination on the ground that certain important questions were not put forth to P.W.1. This application was dismissed by the Court below on the ground that the petitioner is trying to delay the proceedings and that P.W.



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1 has already been sufficiently cross examined.

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4. In the instant case, the petitioner has filed the application almost immediately after the evidence of P.W.1 was closed on 18.10.2022. Therefore, it is not a case where the petitioner moved such an application after the lapse of a long period of time. Considering the charges faced by the petitioner, one opportunity can be given to the petitioner to recall P.W.1 for further cross examination subject to payment of cost.

5. The learned Government Advocate appearing on behalf of the respondent submitted that already P.W.1 to P.W.5 have been examined and the case is now posted on 13.12.2024 for examination of other witnesses.

6. The Court below can issue summons to P.W.1 for her presence on 13.12.2024 for further cross examination. On the date of the appearance of P.W.1, the petitioner shall pay cost of Rs.5,000/- (Rupees Five Thousand only) to P.W.1. Only on payment of such cost, the



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petitioner will be permitted to cross examine P.W.1. The further cross examination will be completed on the same day and if the petitioner fails to cross examine P.W.1 on the date of her appearance, the petitioner will forfeit his right to recall P.W.1 at any future point of time. It is also made clear that the other witnesses who are examined on the side of the prosecution, shall also be cross examined on the same day they are examined in chief.

7. In the result, this Criminal Original Petition is allowed with the above directions.

18.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PKN

To

- 1.The Inspector of Police,
Veeracholan Police Station,
Virudhunagar District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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N.ANAND VENKATESH,J.

PKN

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