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CrI.O.P.(MD) No.2962 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2024

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) No.2962 of 2024

and

CrI.M.P.(MD) No.2325 of 2024

Mahendran

...Petitioner

vs

**The Inspector of Police,
Samayanallur Police Station,
Madurai.**

Crime No.314 of 2019

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying, to set aside the order in CrI.M.P.No.363 of 2024 in CC.No.3 of 2021 on the file of the learned Judicial Magistrate, Vadipatti dated 08.02.2024.

For Petitioner : Mr.P.Venkatesan

For Respondent : Mr.B.Thanga Aravindh

Government Advocate (CrI.side)

ORDER

The learned Counsel for the Petitioner submits that the Petitioner is the sole accused in CC.No.3 of 2021 on the file of the learned Judicial



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Magistrate, Vadipatti. He had cross-examined all the witnesses except P.W12. P.W12 is the Investigation Officer. When the Investigation Officer appeared as P.W12, the Petitioner was unable to cross-examine P.W12 on the date of his deposing the evidence. Subsequently, the Petitioner had filed Cr.M.P.No.363 of 2024 under Section 311 Cr.P.C. seeking to re-call P.W12. The petition was dismissed by the learned Judicial Magistrate, Vadipatti, as per order dated 08.02.2024. Therefore, he seeks to set aside the order passed by the learned Judicial Magistrate, Vadipatti in Cr.M.P.No.363 of 2024 dated 08.02.2024.

2.On perusal of the order passed by the learned Judicial Magistrate, Vadipatti, it is found that it is a case pending before the learned Judicial Magistrate for quite a long time, due to the non availability of the Investigation Officer, who was promoted as Deputy Superintendent of Police and posted in different Stations. Only on 08.01.2024, P.W12, the Investigation Officer, was examined as P.W12. After a long period, when P.W12 was deposing the evidence, the learned Counsel appearing for the accused was not available. Subsequently, P.W12 is now posted in different District. Therefore, the learned Judicial Magistrate, Vadipatti had dismissed



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the petition stating that it is nothing but a method to delay the trial.

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3.Considering the same, the Petitioner is to be granted one more opportunity for examination. If the Investigation Officer is unable to come to the Court personally, he shall be examined through virtual mode. No excuse will be given. It is for the discretion of the learned Judicial Magistrate, Vadipatti to give one opportunity.

4.With the above directions, this Criminal Original Petition is disposed of. The learned Judicial Magistrate, Vadipatti is directed to exercise his/her discretion in permitting the witness to be examined through virtual mode and proceed further with the trial. Consequently, connected Miscellaneous Petition is closed.

Internet:Yes./No

27.02.2024

Index:Yes/No

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To

1.The Inspector of Police,
Samayanallur Police Station,
Madurai.

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2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to

The Judicial Magistrate,
Vadipatti.



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SATHI KUMAR SUKUMARA KURUP, J.

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