



Crl.O.P.(MD)No.7912 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2024

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD) No.7912 of 2023
and Crl.M.P. (MD) No.6916 of 2023

M.Murugan

... Petitioner

Vs.

The Inspector of Police,
Fort Police Station, (Crime),
Trichy District.
Crime No. 246 of 2008.

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the order made in Cr.M.P No. 30837 of 2022 in C.C No. 105 of 2012 on the file of Honble Judicial Magistrate No.1, Trichy dated 08.12.2022.

For Petitioner : Mr.R.Sakthivel

For Respondent : Mr.S.Ravi
Additional Public Prosecutor



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ORDER

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This petition has been filed challenging the order passed by the learned Judicial Magistrate No.1, Trichy, in Crl.M.P No.30837 of 2022 in C.C.No.105 of 2012, dated 08.12.2022, dismissing the application filed by the petitioner under Section 311 of Cr.P.C. to recall P.W.1 to P.W.8 for cross examination.

2.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the respondent.

3.The petitioner is facing trial before the Court below for offences under Sections 419, 420 and 468 of IPC. The prosecution examined P.W.1 to P.W.8 between the period 2016 – 2019. None of these witnesses were cross examined on the side of the petitioner. The examination of witnesses on the side of the prosecution was completed and the questioning was also over under Section 313(1)(b) of Cr.P.C. At this point of time, the present application came to be filed before the Court below.



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4.The Court below took into consideration the fact that the petitioner was attempting to recall the witnesses for cross examination after nearly seven years without any valid reasons. Therefore, the Court below dismissed the application.

5.The learned counsel for the petitioner submitted that some compromise was attempted to be made in this case and that is the reason why the witnesses were not cross examined. The learned counsel also brought to the notice of this Court the fact that the defacto complainant filed a suit in O.S.No.641 of 2010 against the petitioner and others and this suit came to be dismissed by the learned I Additional Sub Judge, Trichy, by judgment and decree dated 22.12.2023. The learned counsel submitted that this judgment will have a lot of bearing in this case. Therefore, the learned counsel submitted that one last opportunity can be given to the petitioner to recall the witnesses.

6.In the considered view of this Court, the petitioner did not choose to cross examine any of the witnesses in this case. The so called



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compromise had taken place in the year 2015 and 2016. However, the witnesses have been examined only after 2016. The Court below was perfectly justified in coming to a conclusion that the witnesses cannot be recalled after such a long lapse of time.

7.This Court considering the seriousness of the charges faced by the petitioner and also the subsequent event that has taken place wherein the suit filed by the defacto complainant in O.S.No.641 of 2010 has been dismissed by the competent civil Court, this Court is inclined to grant one last opportunity to the petitioner to recall P.W.1 alone in this case for cross examination.

8.In the light of the above discussion, the order passed by the Court below in Crl.M.P No.30837 of 2022 in C.C.No.105 of 2012, dated 08.12.2022, is partly modified and the Court below is directed to issue summons to P.W.1 to appear before the Court for cross examination. On the appearance of P.W.1, the petitioner shall pay the cost of Rs.5,000/- (Rupees Five Thousand only). On such payment of cost, the petitioner will be permitted to cross examine P.W.1. It is made



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clear that the cross examination shall be completed on the same day when P.W.1 is present before the Court below. If for any reasons, the petitioner fails to cross examine P.W.1 on appearance, the petitioner will forfeit his right to recall this witness in future.

9.This Criminal Original Petition is partly allowed and there shall be a direction to the learned Judicial Magistrate No.1, Trichy, to dispose of the case in C.C.No.105 of 2012, within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

19.11.2024

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



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- To
- 1.The Inspector of Police,
Fort Police Station, (Crime),
Trichy District.
 - 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH,J.

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