



CRL OP(MD). No.11445 of 2022

Crl.OP(MD)No.11445 of 2022

M.DHANDAPANI, J.

This Criminal Original Petition is listed today under the caption “for being mentioned” at the instance of the learned counsel for the petitioner.

2. It is submitted by the learned counsel for the petitioner that in the operative portion of the order dated 08.02.2024, there are some typographical error occurred.

3. Heard the learned counsel appearing for the petitioner and considered his submissions.

4. In view of the submissions made, the Registry is directed to substitute the fifth paragraph as stated below and issue a fresh order copy.

“5. Considering the facts and circumstances of the case and in order to afford an opportunity to the petitioner herein to examine PW1, this petition is disposed of with the following direction:



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The trial Court shall issue notice to the parties fixing the date of hearing as 22.02.2024. In order to afford an opportunity to



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the petitioner, the petitioner herein is directed to appear before the trial Court on 22.02.2024 and shall examine himself and complete the chief examination on the same day and the respondents are also directed to complete the cross-examination on the same day ie., on 22.02.2024 itself. The petitioner is directed to pay Rs.5,000/- to the respondents/accused. Consequently, connected miscellaneous petition is closed.”

5. The other paragraphs of the order, dated 08.02.2024 shall remain intact.

14.02.2024

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Note: Issue order copy on 16.02.2024.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 08.02.2024

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The Hon`ble Mr.Justice M. DHANDAPANI

**CRL OP(MD) No.11445 of 2022
and Crl.M.P.(MD) No.7242 of 2022**

V.S. Vijey Nandakumar

... Petitioner

Vs

1. Ra. Muruganantham,
S/o. Rajagoplan,
A-9, Cauvery Park,
Mela Chinthamani,
Trichirappalli.

2. Palanisamy,
S/o. Arumugam,
33, Balaji Avenue,
6th Cross Street,
Mela Chinthamani ,
Trichirappalli.

... Respondents

PRAYER :- Criminal Original Petition file under section 482 of Cr.P.C., to set aside the order passed in Cr.M.P.No.428 of 2022 in C.C.No.306 of 2016 on the file of the Judicial Magistrate No.I, Trichirappalli, dated 05.04.2022 and pass such further or other orders as this Court.

For Petitioner : M/s. C. Vakeeswaran



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For Respondents : M/s. M. Karunanithi for R1 & R2
Additional Public Prosecutor
ORDER

This petition has been filed to set aside the order dated 05.04.2022 passed by the learned Judicial Magistrate, No.I, Tiruchirappalli, in Cr. M.P. No.428 of 2022 in CC NO.306 of 2016.

2.The petitioner is the de-facto complainant in CC No.306/2016. While so, in order to recall P.W.1, for recalling him, the petitioner has filed a petition in CrI.M.P.No.428/2022, which was dismissed by the court below and hence, the petitioner is before this Court with this petition.

3. The learned counsel for the petitioner would submit that the petitioner is the complainant in the above said case and the earlier application filed for recalling P.W.1 was dismissed on the ground that the petitioner's counsel was absent. However, when the subsequent application filed for recalling P.W.1, the court below rejected the same by stating that the earlier petition filed for recalling P.W.1 was dismissed and also on the ground of delay. Hence, he would further submit that a direction may be issued for recalling the witness, in which case, the



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petitioner pays necessary costs.

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4.The learned counsel for the respondents/accused would submit that if such a direction is issued, this court may fix a date for recalling P.W.1 and on the same day, the respondents/accused will cross-examine P.W.1.

4. Considering the facts and circumstances of the case and in order to afford an opportunity to the petitioner herein to cross-examine P.W.1, this petition is disposed of with the following direction:

The trial court shall issue notice to P.W.1 fixing the date of hearing as 22.02.2024 and on the said date, the petitioner herein shall cross-examine the said witness, in which case, the petitioner shall pay a cost of Rs.5,000/- (Rupees five thousand only) to P.W.1. Consequently connected Miscellaneous Petition is closed.

08.02.2024

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TO
The Judicial Magistrate No.I,
Trichirappalli.

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**ORDER
IN
CRL OP(MD) No.11445 of 2022**

Date : 08.02.2024