



Crl.O.P.(MD) No.10137 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.07.2024

CORAM

THE HON'BLE MR.JUSTICE B.PUGALENDHI

CRL.O.P (MD) No.10137 of 2024

and

CRL.M.P (MD) No.6868 of 2024

P.Mohan Raj @ Prabudeva

... Petitioner

Vs

**The State represented by
The Inspector of Police,
Thanthonmalai Police Station,
Karur District.
Cr.No.671/2020.**

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to set aside an order passed in Crl.M.P.No.518 of 2024 in S.C.No. 58 of 2021 dated 15.06.2024 on the file of learned Principal District Sessions Judge, Karur.

For Petitioner : Mr.S.M.A.Jinnah,

**For R1 : Mr.P.Kottai Chamy
Government Advocate (Crl.Side)**



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ORDER

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This criminal original petition has been filed seeking to set aside the order passed in Crl.M.P.No.518 of 2024 in S.C.No.58 of 2021 dated 15.06.2024 by the learned Principal District Sessions Judge, Karur District.

2.The learned Counsel appearing for the petitioner submits that the witnesses P.W.16 and P.W.3, who are the investigation officer and the injured. They are vital witnesses and have to be cross-examined to make some defence points. Hence, he prays to set aside the order, dismissing the petition to recall the above witnesses, by the trial Court.

3.The learned Government Advocate (Crl.Side) appearing for the respondent police submits that the petitioner is dragging the trial.

4.This Court has perused the order impugned.

5.The petitioner is the sole accused, who is facing the trial for the offences under Section 341, 394(b), 302 and 307 IPC. The occurrence took



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place in the year 2020, the final report was filed in the year 2021 and it was also committed to the Court of Sessions in the year 2021. All the witnesses were examined and the case is posted for arguments on 10.07.2024. In this circumstances, the petitioner has engaged another counsel and filed an application to recall the witness in P.W.1 to P.W.3, P.W.5, P.W.15 and P.W.16. The ground, on which the application has been filed to recall the witnesses is the change of Counsel. The witness P.W.1 was examined on 06.06.2023 and the other witnesses have been examined on 16.06.2023. Subsequently, pending the trial the petitioner has also threatened the witnesses P.W.1 to P.W.3, for which, a separate case was registered in Crime No.671 of 2020 before the respondent Police Station as against the petitioner and he was arrested and remanded to the judicial custody. When the case was posted for the examination of witnesses L.W.7, L.W.12, L.W.15 and L.W.16, the petitioner has filed an application that he has lost confidence on his Counsel on record and requested for an adjournment. In view of the submission made by the petitioner, the Counsel on record has withdrawn his vakalat. Therefore, the witnesses, L.W.7, L.W.12, L.W.15 and L.W.16, who were present before the trial Court, were not examined on that day and the case was adjourned to 08.07.2023. On 08.07.2023 also, the



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petitioner has not examined the said witnesses and has made a request that the present Counsel on record has gone to High Court of Madras to conduct a case. The trial Court has rejected the request of the petitioner and Mr.Charan K Baskar, Chief Legal Defence Counsel was appointed through Legal Services Authority, who has filed vakalat for the petitioner. On 19.07.2023, L.W.4, L.W.11 and L.W.22 were examined as P.W.8 to P.W.10. However, the cross-examination of P.W.8 to P.W.10 was deferred to 20.07.2023 on the petition filed by the petitioner. Thereafter, the petitioner has regained his confidence on the earlier Counsel/Mr.A.M.Senthil Kumar, learned Counsel, who has again filed a memo on 20.07.2023. Thereafter, the prosecution has examined the witnesses P.W.11 to P.W.16 and closed its evidence on 04.10.2023. On the very same day, when the case was listed for questioning under Section 311 Cr.P.C., the petitioner has filed an application to recall the witnesses P.W. 1 to P.W.3 for further cross-examination, the same was allowed by the trial Court in Crl.M.P.No.14 of 2023 on 10.10.2023 and an opportunity was also provided to the petitioner for further cross-examination of the witnesses P.W.1 to P.W.3 on 10.01.2024. The witnesses P.W.1 to P.W.3 were further cross-examined on the side of the petitioner's Counsel. Thereafter, the petitioner was



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questioned under Section 311 Cr.P.C. on 30.01.2024. After the questioning, the petitioner has filed an application in C.M.P.No.01 of 2024, to recall the witness P.W.16 for further cross-examination that was also allowed on 13.03.2024. The witness P.W.16 was recalled for further cross-examination. Then, on 29.05.2024, the petitioner's Counsel was not available and therefore, the investigation officer, who was present pursuant to the application filed by the petitioner, was not cross-examined by the petitioner. Thereafter, the case was posted on 04.06.2024 for arguments. On that day, Mr.A.M.Senthil Kumar, the learned Counsel for the petitioner, has once again withdrawn his vakalat and a new Counsel Mr.Prabakaran has filed vakalat for the accused and filed the application in CrI.M.P.Nos.518 and 519 of 2024 to recall the witnesses P.W.1 and P.W.2 and other witnesses. The trial Court has also allowed the same and recalled the witnesses P.W.1 to P.W.3. They were further cross-examined on 10.01.2024. The witness P.W.16 was further cross-examined on 04.10.2023.

7.In view of the above, this Court is of the opinion that the petitioner is dragging the proceedings by changing his Counsels and he has also been



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provided with an opportunity twice for the purpose of cross-examining the witnesses P.W.1 to P.W.3 and P.W.16 and this Court feels that there is no reason to interfere with the order passed by the Principal District Sessions Judge, Karur District in Crl.M.PNo.518 of 2024, dated 15.06.2024.

8. Accordingly, this criminal original petition is dismissed with a direction to the Principal District Sessions Judge, Karur District to conclude the trial in S.c.No.58 of 2021 as expeditiously as possible. Consequently, the connected miscellaneous petition is closed.

09.07.2024

NCC : Yes/No
Internet: Yes/No
Index: Yes/No
LR

Note: Issue Order copy on 09.07.2024



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To

1. The Principal District Sessions Judge,
Karur District.

2. The Inspector of Police,
Thanthonmalai Police Station,
Karur District.

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



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B.PUGALENDHI, J.

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