



CrI.O.P.(MD)No.10824 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.07.2024

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THE HON'BLE MR.JUSTICE B.PUGALENDHI

CrI.O.P.(MD)No.10824 of 2024

Muneeshwaran

... Petitioner

versus

State Rep. by
The Inspector of Police,
Srivilliputtur Town Police Station,
Virudhunagar District.

... Respondent

Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita and under Section 482 Cr.P.C. to call for the records relating to the order dated 26.07.2023 and 07.08.2023 in Cr.M.P.No.6880 of 2023 in C.C.No.867 of 2022 on the file of the learned Chief Judicial Magistrate, Srivilliputtur, set aside the same and consequently, direct the learned Chief Judicial magistrate, Srivilliputtur, to cross examine the prosecution witnesses to the petitioner herein.

For Petitioner : Mr.T.Dineshpandi



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For Respondent : Mr.P.Kottaichamy
Government Advocate (CrI. side)

ORDER

The petitioner/accused is facing a prosecution in C.C.No.867 of 2022 on the file of the learned Chief Judicial Magistrate, Srivilliputtur, for the offence under Sections 279 and 304A IPC. The prosecution witnesses, namely, P.W.1 to P.W.5 were produced before the trial Court and they were examined in chief on 12.07.2023. Though the petitioner has engaged a counsel, his counsel has not cross examined the prosecution witnesses on that day. Therefore, the petitioner has filed an application under Section 311 Cr.P.C. before the learned Chief Judicial Magistrate, Srivilliputhur, to recall P.W.1 to P.W.5. The learned Chief Judicial Magistrate, Srivilliputtur, by order dated 26.07.2023, has allowed the said application on condition that the petitioner shall pay the cost of Rs.10,000/- to DLSA on or before 07.08.2023. Since the petitioner has not paid the said amount, the learned Chief Judicial



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Magistrate, by order dated 07.08.2023, dismissed the said application. Challenging the same, the petitioner has filed this petition, when the case in C.C.No.867 of 2022 is posted for arguments.

2. The learned counsel for the petitioner submits that the petitioner is a poor man and therefore, he is not in a position to pay the cost amount as directed by the learned Chief Judicial Magistrate, Srivilliputtur.

3. This Court is not inclined to accept the above contention. Moreover, this Court is not inclined to appreciate the manner in which the order dated 26.07.2023 is challenged before this Court when the case is posted for arguments. But, the fact remains that the petitioner is facing a prosecution for the offence under Sections 279 and 304A IPC. Therefore, he needs to be provided an opportunity to cross examine the prosecution witnesses.



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4. However, considering the manner in which the trial has been protracted, this Criminal Original petition is allowed with a cost of Rs.15,000/-, which has to be paid by the petitioner to the prosecution witnesses (P.W.1 to P.W.5).

5. If the petitioner files an application under Section 311 Cr.P.C., the trial Court shall consider the same and provide one more opportunity for the petitioner to cross examine P.W.1 to P.W.5 on a specific date. The petitioner shall cross examine P.W.1 to P.W.5 on the same day. When P.W.1 to P.W.5 are present for cross examination, they shall be disbursed a sum of Rs.3,000/- each for calling them again for cross examination.

23.07.2024

Index : Yes / No.
Internet : Yes / No.
NCC : Yes / No.
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To

1. The Chief Judicial Magistrate,
Srivilliputtur.
2. The Inspector of Police,
Srivilliputtur Town Police Station,
Virudhunagar District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.

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