



Crl.O.P.(MD)No.13297 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

**Crl.O.P.(MD)No.13297 of 2024
and
Crl.M.P(MD)No.8203 of 2024**

Murugan @ Naripparai Murugan

... Petitioner

Vs.

**The State rep.by the Inspector of Police,
Palavoor Police Station,
Palavoor, Tirunelveli District.
Crime No.143 of 2012.**

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to set aside the order in Crl.M.P.No.10 of 2024 in S.C.No.838 of 2023 by the learned Assistant Sessions Judge, Valliyoor, Tirunelveli District and subsequently, order the relief as sought for in the present petition.

For Petitioner : Mr.S.Palani Velayutham

**For Respondent : Mr.K.Sanjai Gandhi,
Government Advocate (Criminal Side)**



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ORDER

This Criminal Original Petition is directed against the order, dated 20.06.2024 in Crl.M.P.No.10 of 2024 in S.C.No.838 of 2023 on the file of the learned Assistant Sessions Judge, Valliyoor, Tirunelveli District, dismissing the petition filed under Section 311 of Cr.P.C.

2. The petitioner is facing trial for the alleged offence under Sections 341, 294(b), 307 and 506(ii) IPC. It is not in dispute that all the prosecution witnesses have been examined, except the Investigating Officer and the case stands posted to 14.08.2024 for examination of Investigating Officer. The petitioner has alleged that since he was in judicial custody, he could not instruct his counsel for cross examination of P.W.1; that P.W.1 was not cross examined fully and perfectly; that the petitioner is having some documents to prove his innocence and pertaining to the said document, P.W.1 was not cross examined and that therefore, P.W.1 has to be recalled for further cross examination.

3. The trial Court, by observing that P.W.1 was subjected to lengthy cross examination, but the petitioner has not mentioned about the



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documents, he wanted to rely and to cross examine P.W.1, dismissed the petition.

4. The reasons assigned by the learned trial Judge for dismissing the petition cannot be found fault with. But at the same time, taking note of the fact that the petitioner is in judicial custody and he is not in a position to give proper instructions to the counsel on record, this Court is of the view that the petitioner should be given one more opportunity to cross examine the said witness, but on conditions. The petitioner shall deposit a sum of **Rs.2,000/- (Rupees Two Thousand Only)** to the Advocates Welfare Fund [Indian Bank High Court Branch, Madurai, Current Account No. 7087208431, IFSC IDIBI000H040] attached to this Bench and to deposit the witness batta before the concerned Court **within three days from the date of receipt of copy of this order** and on production of proof for depositing Rs.2,000/- to the Advocates Welfare Fund and on depositing the witness batta, the learned trial Judge is directed to issue summons to the said witness for the purpose of cross examination. The petitioner is also directed to cross examine the witnesses, whenever the witness is produced before the Court and in case of the petitioner's failure to cross



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examine the witness, then he will forfeit his right to cross examine the witness.

5. With the above directions, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

14.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
das

To

1. The Assistant Sessions Judge, Valliyoor,
Tirunelveli District.
2. The Inspector of Police,
Palavoor Police Station,
Palavoor, Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

DAS

Order made in
Crl.O.P.(MD)No.13297 of 2024
and
Crl.M.P(MD)No.8203 of 2024

Dated: 14.08.2024