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Crl.O.P.(MD)No.16632 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD) No.16632 of 2022
and Crl.M.P(MD).No.11104 of 2022

- 1.Moorthy @ Ganesa Moorthy
- 2.Thamodaran
- 3.Sankarasathasivam
- 4.Chelladurai
- 5.Sekar @ Chandrasekar
- 6.Ravindran

... Petitioners

Vs.

The Inspector of Police,
Ilathur Police Station,
Ilathur.
Crime No.40/2016

...Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records of the learned Additional District and Sessions Judge (Fast Track) Tenkasi in Cr.M.P.No.296 of 2022 in S.C.No.188 of 2017 and set aside the order dated 25.07.2022.

For petitioners : Mr.Mathavaselvam

For Respondent : Mr.S.Manikandan

Government Advocate (crl.side)



ORDER

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This Criminal Original Petition has been filed to call for the records pertaining to the order passed in Cr.M.P.No.296 of 2022 in S.C.No.188 of 2017, dated 25.07.2022 by the learned Additional District and Sessions Judge (Fast Track) Tenkasi and set aside the same.

2. The learned counsel appearing for the petitioners submits that the petitioners are the accused in S.C.No.188 of 2017, in which, one Balamurugan, P.W.12/Investigating Officer was examined, however, he was not cross-examined by the learned counsel for the petitioners, who is appearing before the trial Court. Thereby, the petitioners have filed a petition under Section 311 Cr.P.C to recall P.W.12 for cross-examination, however, the petition was dismissed. Challenging the same, the present Petition has been filed.

3. The learned counsel appearing for the petitioners further submits that the valuable rights guaranteed to the accused persons for cross-examination of witnesses, may not be taken away and hence, an opportunity may be given to the petitioners for cross-examination of P.W.12.



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4. The learned Government Advocate appearing for the respondent Police submits that next date of hearing is 22.03.2024 and this Court may fix a date for appearance of P.W.12 for cross-examination and on that date, P.W.12 will appear.

5. As rightly pointed out by the learned counsel appearing for the petitioner, the valuable rights guaranteed under the provisions of law to the accused persons to recall the witnesses should not be just taken away. Considering the submission made by both sides and in order to give an opportunity to the petitioner to cross-examine P.W.12, this Criminal Original Petition is disposed of with the following direction:

- (i) The date for cross-examination of P.W.12 is **22.03.2024**;
- (ii) On the said date, the petitioners herein shall cross-examine the said witness, for which, the petitioners shall pay a cost of Rs.5,000/- (Rupees five thousand only) jointly to P.W.12. Consequently connected Miscellaneous Petition is closed.

22.02.2024

Index : Yes/No
Internet : Yes/No
ssb



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1. The learned Additional District and Sessions Judge (Fast Track),
Tenkasi.
2. The Inspector of Police,
Ilathur Police Station,
Ilathur.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI. J.

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