



Crl.O.P.(MD)No.16193 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.16193 of 2024

Ravichandran

... Petitioner

Vs.

State of Tamil Nadu, Rep. by
The Inspector of Police,
CBCID Madurai,
Madurai District.
(Crime No.2 of 2019)

... Respondent

PRAYER : Criminal Original Petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying to allow this petition and set aside the order passed by the learned V Additional District and Sessions Judge, Madurai, in Cr.M.P.No.1255 of 2024 in S.C.No.289 of 2021, dated 28.08.2024 and recall P.W.75 to P.W.77, for the purpose of cross-examination.

For Petitioner : Mr.Gopala Krishna Lakshmana Raju
Senior Counsel
for Mr.S.G.L.Rishwanth

For Respondent : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor



Crl.O.P.(MD)No.16193 of 2024

WEB COPY

ORDER

This order has to be read in conjunction with and in continuation of earlier proceedings made in the previous listing on 18.11.2024, which reads as follows:-

"The learned Senior Counsel for the petitioner submitted that this is a case of custodial death involving five accused. The petitioner is the second accused and was serving as the Inspector of Police at the S.S.Colony Police Station, Madurai. During his service, in connection with a case, a 17-year-old boy is said to have been unlawfully detained for three days, beaten, and killed. Later, the body was handed over to the boy's family members and buried. Subsequently, the body was exhumed following the registration of the case, and the petitioner has been named as an accused.

2. In this case, 77 witnesses have been examined so far. The petitioner has cross-examined P.W.1 to P.W.74, but has been unable to cross-examine P.W.75, P.W.76, and P.W.77. P.W. 75, the postmortem doctor, was examined on 03.07.2024. P.W.76 and P.W.77 are the Assistant Directors from the Forensic Science Department, Chennai.



Crl.O.P.(MD)No.16193 of 2024

WEB COPY

3. The learned Senior Counsel for the petitioner contended that during the examination of these three witnesses, the counsel was unwell, which was communicated to the trial Court. However, the trial Court did not consider the same. The examination of these three witnesses is crucial to the case, particularly because the postmortem doctor's testimony is vital to determine the nature of the injuries (pre-injury and post-injury) as this is a case of custodial death and exhumation. Furthermore, P.W.76 and P.W.77, being involved in the collection of videos and their subsequent submission for anthropological examination, play an important role in the case. Therefore, cross-examining these two witnesses is also necessary.

4. The trial Court, however, did not consider the significance of these witnesses' cross-examination and merely referred to the judgment of the Hon'ble Supreme Court in **Vinod Kumar vs. State of Punjab (CDJ 2015 SC 115)**, which pertains to a case under the Prevention of Corruption Act where there is a statutory restriction. In contrast, the petitioner is facing a charge that could result in capital punishment, making the cross-examination particularly crucial. This aspect was not taken into account by the trial Court. The learned Senior Counsel further assured that, on the day of their appearance, the witnesses could be cross-examined without delay and that the



Crl.O.P.(MD)No.16193 of 2024

petitioner is ready to abide by any other conditions imposed by the Court.

*5. The learned Additional Public Prosecutor, on instructions, submitted that P.W.75 is still serving at Government Rajaji Hospital, Madurai. Regarding P.W.76 and P.W.77, they are based in Chennai, and their availability will be confirmed. The availability details will be provided by **20.11.2024**, so that cross-examination can be completed on the day of their appearance, without any further delay.*

*6. Post the matter on **20.11.2024**."*

2. Pursuant to the order passed by this Court dated 18.11.2024, today, the learned Additional Public Prosecutor, on instructions, submits that witnesses P.W.75, P.W.76, and P.W.77 will be available for examination before the trial Court on 04.12.2024.

3. The learned Senior Counsel for the petitioner has assured that the petitioner will cross-examine all three witnesses on 04.12.2024, without fail.



Crl.O.P.(MD)No.16193 of 2024

WEB COPY

4. Recording the above said submissions, this Criminal Original Petition is allowed and the order passed by the learned V Additional District and Sessions Judge, Madurai, in Cr.M.P.No.1255 of 2024 in S.C.No.289 of 2021, dated 28.08.2024, is set aside. It is hereby clarified that in the event the petitioner fails to cross-examine the witnesses despite their presence on 04.12.2024, no further opportunities for cross-examination will be granted.

NCC : Yes / No

20.11.2024

Index : Yes / No

smn2

Note:- Issue order copy on 21.11.2024.

To

1.The V Additional District and Sessions Judge,
Madurai.

2.The Inspector of Police,
CBCID Madurai,
Madurai District.

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



WEB COPY



Crl.O.P.(MD)No.16193 of 2024

M.NIRMAL KUMAR, J.

smn2

Order made in
Crl.O.P.(MD)No.16193 of 2024

Dated: 20.11.2024