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Crl.O.P.(MD)No.20067 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.02.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

Crl.O.P.(MD) No.20067 of 2022

and

Crl.M.P.(MD)No.13848 of 2022

M.Abuthahir

... Petitioner/A2

(Presently confined at Central Prison, Puzhal, Chennai)

Vs.

State Through the
Inspector of Police,
Aruppukottai Town Police Station,
Aruppukottai.
Crime No.732 of 2015.

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of C.P.C., to call for the records pertaining to Crl.M.P.No.92 of 2022 in S.C.No.65 of 2018 on the file of the learned Assistant Sessions Judge, Aruppukottai and set aside the impugned order passed in Crl.M.P.No.92 of 2022, dated 11.10.2022 and thereby, ordered to recall the witnesses namely P.W.1 and P.W.28.

For petitioner : Mr.C.M.Arumugam

For Respondent : Mr.S.Manikandan
Government Advocate (Crl. side)



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ORDER

This petition has been filed seeking to call for the records in Crl.M.P.No.92 of 2022 in S.C.No.65 of 2018 on the file of the learned Assistant Sessions Judge, Aruppukottai and set aside the impugned order passed in Crl.M.P.No.92 of 2022, dated 11.10.2022 and thereby, ordered to recall the witnesses namely P.W.1 and P.W.28.

2.The petitioner is arrayed as accused in S.C.No.1242 of 2021. During the trial, the petitioner filed a recall petition in Cr.M.P.No.92 of 2022 in S.C.No.65 of 2018 under Section 311 of Cr.P.C. and the same was dismissed. Challenging the same, the petitioner has filed the present petition before this Court.

3.The learned counsel for the petitioner would submit that the case is of the year 2018 and all the prosecution witnesses were examined and cross examined periodically. However, he has to further cross examination of P.W.1 and P.W.28 alone since some of the vital factors are to be explored in this regard. However, the trial Court has not considered the petitioner's recall application and dismissed the same. Thereby, the petitioner filed a recall petition for recalling P.W.1 and P.W.28 and the



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petitioner is ready to pay cost to the inconvenience caused to P.W.1 and P.W.28.

4.The learned Government Advocate (CrI. side) for the respondent would submit that this Court may fix a date for cross examination of P.W.1 and P.W.28 by the petitioner/accused on the reasonable cost.

5.In view of the above, the Criminal Original Petition is allowed and the order dated 11.10.2022 made in Cr.M.P.No.92 of 2022 in S.C.No.65 of 2018 on the file of the learned Assistant Sessions Judge, Aruppukottai, is set aside. Accordingly, P.W.1 and P.W.28 are directed to appear before the trial Court on the next hearing date. On that day, the petitioner has to complete the cross examination of P.W.1 and P.W.28, for which, he has to pay Rs.5,000/- each to P.W.1 and P.W.28. After cross examination of P.W.1 and P.W.28, the learned Assistant Sessions Judge, Aruppukottai, is directed to complete the trial and dispose of the case within a period of six months. Consequently, connected miscellaneous petition is closed.

23.02.2024

Index : Yes/No
Internet : Yes/No
NCC: Yes/No
SJI



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M.DHANDAPANI. J.

SJI

To

- 1.The Assistant Sessions Judge, Aruppukottai.
- 2.The Inspector of Police,
Aruppukottai Town Police Station,
Aruppukottai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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