



Crl.O.P.(MD)No.21450 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2024

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD) No.21450 of 2023
and Crl.M.P. (MD) No.16783 of 2023

Jeyaprakash

... Petitioner

Vs.

The Sub Inspector of Police,
Poovanthi Police Station,
Sivagangai.
Crime No. 109 of 2019.

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the order dt. 22.08.2023 passed in Cr. M.P No. 7454 of 2023 in C.C No. 185 of 2022 on the file of the Learned Judicial Magistrate No.II, Sivagangai to recall the P.W 3 to PW6 for cross examination in C.C No. 185 of 2022.

For Petitioner : Mr.K.Kumaravel

For Respondent : Mr.A.Albert James
Government Advocate (Crl. Side)



Crl.O.P.(MD)No.21450 of 2023

ORDER

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This petition has been filed challenging the order passed by the learned Judicial Magistrate No.II, Sivagangai, in Crl.M.P.No.7454 of 2023, dated 22.08.2023, dismissing the application filed by the petitioner under Section 311 of Cr.P.C. to recall P.W.3 to P.W.6 for cross examination.

2.Heard the learned counsel for the petitioner and the learned Government Advocate appearing on behalf of the respondent.

3.The petitioner is facing trial before the Court below for offence under Sections 279 and 304(A) of IPC. The prosecution examined P.W.3 to P.W.6 on 20.06.2023. The petitioner did not cross examine these witnesses and hence, their evidence was closed. Subsequently, the petitioner filed an application under Section 311 of Cr.P.C. to recall P.W.3 to P.W.6 for cross examination. This application was dismissed by the Court below on the ground that the petitioner as well as his counsel were present at the time of hearing and in spite of the same, they did not cross examine the witnesses.



Crl.O.P.(MD)No.21450 of 2023

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4.Taking into consideration the facts and circumstances of the case and the nature of charges faced by the petitioner, this court is inclined to recall P.W.3 to P.W6 for cross examination by imposing conditions.

5.In the result, the order passed by the Court below in Crl.M.P.No.7454 of 2023, dated 22.08.2023 is hereby set aside. The Court below shall recall P.W.3 to P.W.6 for cross examination. On the date of their appearance, the petitioner is directed to pay cost of Rs.750/- to each of the witness. The cross examination shall also be completed on the same day the witnesses appear before the Court. If for any reason the petitioner fails to cross examine the witnesses on the date of their appearance, the petitioner will forfeit his right to recall those witnesses in future.

6.The learned counsel for the petitioner submitted that subsequently, due to change of jurisdiction, the case has now been transferred to the file of the learned Judicial Magistrate, Thirupuvanam.



Crl.O.P.(MD)No.21450 of 2023

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7.This Criminal Original Petition is allowed with a direction the learned Judicial Magistrate, Thirupuvanam, to dispose of C.C No. 185 of 2022 within a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

29.11.2024

NCC	:	Yes / No
Index	:	Yes / No
Internet	:	Yes / No
PKN		



Crl.O.P.(MD)No.21450 of 2023

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To

- 1.Judicial Magistrate,
Thirupuvanam.
- 2.The Sub Inspector of Police,
Poovanthi Police Station,
Sivagangai.
- 3.The Additional Public Prosecutor
Madurai Bench of Madras High Court.



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Crl.O.P.(MD)No.21450 of 2023

N.ANAND VENKATESH,J.

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Crl.O.P.(MD)No.21450 of 2023

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