



Crl.O.P.(MD)No.18083 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 22.10.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.18083 of 2024

and

Crl.M.P(MD)No.11195 of 2024

Selvaraj @ Suresh

: Petitioner/Sole accused

Vs.

State of Tamil Nadu rep.by
The Inspector of Police,
Ponnamaravathy Police Station,
Pudukkottai District.
Crime No.22 of 2019.

: Respondent

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records pertaining to the order in Cr.M.P.No.22 of 2024 in S.C.No.53 of 2019, dated 27.03.2024 passed by the Sub Court, Thirumayam and set aside the same as illegal.

For Petitioner : Mr.K.C.Maniyarasu

For Respondent : Mr.P.Kottai Chamy,
Government Advocate (Criminal Side)



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ORDER

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This Criminal Original Petition is directed against the order passed in Cr.M.P.No.22 of 2024 in S.C.No.53 of 2019, dated 27.03.2024 passed by the Sub Court, Thirumayam, dismissing the petition filed under Section 311 of Cr.P.C.

2. The petitioner is facing the trial in S.C.No.53 of 2019 for the alleged offence under section 397 of IPC. Pending trial, the petitioner has filed the above application to recall P.W.10 and P.W.14 for further cross examination. The learned Assistant Sessions Judge, by observing that P.W.10 was already cross examined and when P.W.14 was chief examined, the accused side has not chosen to cross examine the witness and that since the case is pending from 2019, was not inclined to grant permission to recall the witnesses.

3. When the matter is taken up for hearing today, the learned counsel for the petitioner would submit that he is restricting the prayer with regard to P.W.14 as P.W.14 has not at all been cross examined.



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4. No doubt, the reason assigned by the learned trial Judge for dismissal of the petition cannot be found fault with. But at the same time, since the petitioner is facing serious offence, he should be given an opportunity to cross examine the said witness so as to establish his defence as claimed him.

5. Considering the facts and circumstances of the case, this Court is inclined to give one more opportunity to the petitioner to cross examine the P.W.14, but on terms. The petitioner shall deposit a sum of **Rs.5,000/- (Rupees Five 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 a period of ten days from the date of receipt of copy of this order** and on production of proof for depositing Rs.5,000/- to the Advocates Welfare Fund and on depositing the witness batta, the learned trial Judge is directed to issue summon to P.W.14 for the purpose of further cross examination and complete the examination within 10 days from the date of receipt of this order and to dispose of the case in S.C.No.53 of 2019 within



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a period of one month, after examination of P.W.14. The petitioner is also directed to cross examine the witness, whenever the witness is produced before the Court and in case of the petitioner's failure to cross examine the witness, then he will forfeit his right to cross examine the witness.

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

22.10.2024

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

To

1.The Inspector of Police,
Ponnamaravathy Police Station,
Pudukkottai District.

2.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.18083 of 2024
and
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Dated: 22.10.2024