



Crl.O.P.(MD)No.20025 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P.(MD)No.20025 of 2023

G.Pandimeena

... Petitioner/2nd Accused

vs.

State represented through
The Inspector of Police,
CCIW,
Sivagangai.
(Crime No.10 of 2004)

... Respondent/Complainant

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to the impugned order in Crl.M.P.No.9444 of 2022 in C.C.No.81 of 2006 on the file of the learned Judicial Magistrate No.2, Sivagangai and set aside the same.

For Petitioner : Mr.N.Mohideen Basha

For Respondent : Mr.Thanga Aravindh.B
Government Advocate (Criminal Side)

ORDER

This petition has been filed challenging the order passed by the learned Judicial Magistrate No.II, Sivagangai, in Crl.M.P.No.9444 of 2022



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dated 07.12.2022, dismissing the application filed by the petitioner under Section 311 of Code of Criminal Procedure to recall P.W.1 to P.W.28 for cross examination.

2. When the matter came up for hearing on 28.11.2024, this Court passed the following order :

“The learned counsel for the petitioner submitted that the petitioner want to recall all the witnesses for cross examination. Such request made by the learned counsel for the petitioner is unsustainable. Recalling witnesses for cross examination is not based on the convenience of the accused persons. The accused persons must take steps to ensure that the witnesses are cross examined on the same day they are examined in chief. The previous order passed on 06.12.2023 shows that totally 43 witnesses have been examined and except three witnesses, none of the other witnesses were cross examined. Hence, there is no question of recalling all the witnesses for cross examination.

2. As a last chance, the petitioner is directed to go through the deposition and identify the important/material witnesses who should be recalled for cross examination. If such witnesses are identified,



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this Court will also apply its mind and pass appropriate orders.

3. Post this Criminal Original Petition finally on 05.12.2024.”

3. When the matter was taken up for hearing today, the learned counsel for the petitioner, on instructions, submitted that the petitioner wants to recall P.W.12, P.W.18 and P.W.20 to P.W.27.

4. Heard Mr.N.Mohideen Basha, learned counsel appearing for the petitioner and Mr.Thanga Aravindh.B, learned Government Advocate (Criminal Side) appearing for the respondent.

5. Taking into consideration the facts and circumstances of the case, and considering the seriousness of charges faced by the petitioner and in order to afford one opportunity to the petitioner to cross examine the important witnesses identified by her, this Court is inclined to modify the order passed by the Court below.



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6. The Court below shall recall P.W.12, P.W.18, P.W.20 to P.W.27 for cross examination by the petitioner. Each of those witnesses shall be paid a sum of Rs.500/- (Rupees Five Hundred only) as cost on their appearance. They shall be cross examined on the same day they 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 her right to recall the witnesses in future. That apart, the other prosecution witnesses examined by the police shall be cross examined on the same day they are examined in chief.

7. In the result, this Criminal Original Petition is partly allowed to the extent stated *supra*, and there shall be a direction to the learned Judicial Magistrate No.II, Sivagangai to dispose of the case in C.C.No.81 of 2006 within a period of four months from the date of receipt of a copy of this order.

05.12.2024

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Index : Yes/No

Speaking Order/Non-Speaking Order

Neutral citation : Yes/No



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WEB COPY To

- 1.The learned Judicial Magistrate No.2,
Sivagangai
- 2.The Inspector of Police,
CCIW,
Sivagangai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N. ANAND VENKATESH, J.

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