



CrI.O.P.(MD) No.21457 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 06.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE **M. NIRMAL KUMAR**

CrI.O.P.(MD) No.21457 of 2024

and

CrI.M.P.(MD)No.13303 of 2024

Adaikalam

...Petitioner/Respondent/Accused

Vs.

The State of Tamil Nadu,
Rep. by The Inspector of Police,
Aruppukottai Taluk Police Station,
Virudhunagar District.
Crime No.138 of 2019

... Respondent/Petitioner/Complainant

PRAYER: Criminal Original Petition filed under Section 528 of BNSS, to call for the records and set aside the order passed by the Court of Sessions Judge (Mahalir Neethimandram), Fast Track Mahila Court, Virudhunagar at Srivilliputtur in CrI.M.P.No.115 of 2024 in S.C.No.63 of 2020 on 08.11.2024.

For Petitioner : Mr.M.Jothi Basu

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (CrI. side)

ORDER

The petitioner/accused, who is facing trial in S.C.No.63 of 2020 for the offences under Sections 302 and 201 of IPC, has filed this petition challenging



CrI.O.P.(MD) No.21457 of 2024

the order passed in CrI.M.P.No.115 of 2024, dated 08.11.2025, whereby the trial Court had permitted the respondent police to recall P.W.17, fingerprint expert for further examination in chief and to mark the reasoning sheet, opinion report and finger print photos.

2.The contention of the petitioner is that the occurrence has taken place in 2019 and the charge sheet has been filed in the year 2020. Thereafter, the trial has been progressed. The petitioner had examined the witnesses without delay. P.W.17, a fingerprint expert was examined on 08.03.2023. Thereafter, on the same day, he was cross examined in chief. He was also questioned with regard to the non-production of the enlarged photographs and the report. Thereafter, P.W.28, the Investigating Officer was examined on 06.12.2023, he was also cross examined in this aspect. At that stage, the case was adjourned for further cross examination and thereafter, the petition under Section 311 of Cr.P.C. was filed by the prosecution, which is nothing but to fill up the lacuna in the prosecution case and also give an answer for the cross examination by the petitioner. He further submitted that after examination of P.W.17 on 08.03.2023 and the Investigating Officer on 06.12.2023, petition under Section 311 of Cr.P.C has been filed belatedly. The prosecution has not to take a role of a party, it has to be fair and just in producing the documents. In the earlier stage of



CrI.O.P.(MD) No.21457 of 2024

2017, no documents are pertaining to the fingerprint expert, more particularly the reasoning sheet, opinion report and the enlarged fingerprint photos neither submitted to the Court nor supplied to the petitioner. Hence, the genuineness of the same is also doubtful.

3.The learned Government Advocate (Crl. side) submits that P.W.17, is the fingerprint expert, who is an independent witness and he has got no interest in this case and he has got nothing to grind against the petitioner. P.W.17 admits that on 07.08.2019 at 08.10 pm., he went to the occurrence place and collected two samples from the scene of occurrence and he compared both the prints and had filed his report. By oversight, the reasoning sheet, opinion report and the fingerprint photos were not collected by the Investigating Officer and P.W.17 was also not handed over. But it was only a mistake and nothing intentional. Coming to P.W. 17, he had been questioned in this regard, who admitted to his visit, taking photographs and also making a study on the fingerprint available in the scene of occurrence along with that of the accused. He had given an Ex.P.5 report and in that report, there is a reference to the photographs taken and the study made on the photographs. Now the reasoning sheet and the fingerprint photos are to be marked. P.W.17 is not a part of the police team and he is an independent witness and hence, nothing can be attributed against him.



CrI.O.P.(MD) No.21457 of 2024

4.Considering the submissions and perusal of the materials, it is seen that P.W.17, who is the fingerprint expert, had admitted that on 07.08.2019 at about 08.10 p.m., he had gone to the scene of occurrence and collected two fingerprint photos (M.O.1 and M.O.2), based on which, he had given a report as Ex.P.5. It is further seen that a report is preferred based on the photograph and the reasoning sheet. This Court finds that unless these reports are not marked, Ex.P.5 report would become a questionable one. In view of the same, the trial Court had rightly allowed the petition. Hence, this Court finds no reason to interfere with the order passed by the trial Court.

5.For the above reasons, this Criminal Original Petition is dismissed. The fingerprint expert shall be examined and he shall also produce the copy of the reasoning sheet, photographs or any other documents, which were marked before the trial, to the petitioner well before the examination. Thereafter, P.W.17 has to be examined and thereafter, the cross examination of the Investigation Officer can be continued. The entire exercise shall be completed without any further delay. Consequently, connected miscellaneous petition is closed.

06.12.2024

Internet: Yes/No

Index: Yes/No

sjj



WEB COPY



Crl.O.P.(MD) No.21457 of 2024

To

- 1.The Sessions Judge (Mahalir Neethimandram),
Fast Track Mahila Court, Virudhunagar at Srivilliputtur.
- 2.The Inspector of Police,
Aruppukottai Taluk Police Station,
Virudhunagar District.
- 3.The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai



WEB COPY



Crl.O.P.(MD) No.21457 of 2024

M. NIRMAL KUMAR.J.,

sjj

Crl.O.P.(MD) No.21457 of 2024

06.12.2024