



Crl.O.P.(MD)No.19800 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2025

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THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.19800 of 2024

and

Crl.M.P(MD) No.12200 of 2024

Devanesan

.. Petitioner

Vs.

The Inspector of Police
Kovilpatti West Police Station
Kovilpatti
Thoothukudi District

.. Respondent

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records of the learned Judicial Magistrate No.II, Kovilpatti in Crl.M.P.No.9119 of 2024 in C.C.No.225 of 2016 and set aside the impugned docket order dated 30.08.2024

For Petitioner : Mr.P.Saravanakumar

For Respondent : Mr.M.Sakthikumar
Government Advocate(Crl.Side)

ORDER

This Criminal Original Petition has been filed to set aside the impugned docket order dated 30.08.2024 passed by the learned Judicial



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Magistrate No.II, Kovilpatti in Crl.M.P.No.9119 of 2024 in C.C.No.225 of 2016.

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2. The learned counsel appearing for the petitioner would submit that the petitioner is an accused in this case and the case was posted for trial. Already P.W.1 and P.W.2 were examined on 26.06.2023 and 14.12.2023. Due to non availability of necessary documents he was unable to cross examine the witnesses on the same day and his counsel was not present on that particular date and thereby unable to cross examine the witnesses. Therefore the petitioner has filed a petition to recall P.W. 1 and P.W.2 before the trial Court but the trial Court after hearing both sides dismissed the petition without assigning any reasons.

3. The learned Government Advocate(Crl.Side) appearing for the respondent would submit that though sufficient opportunities were given to the petitioner he failed to avail those opportunities and the reasons stated by the petitioner are not acceptable and trial Court has passed a well reasoned order and thereby the petition is liable to be dismissed.

4. Heard both sides and perused the materials available on records.



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5. In this case it is admitted fact that the petitioner is an accused and he is facing trial for the offences under Sections 406,420,294(b), 506(2) of IPC. The prosecution witness P.W.1 and P.W. 2 were examined but unfortunately those witnesses were not cross examined. According to the petitioner due to non availability of some documents and due to the absence of advocates on the particular date unable to cross examine the witnesses. It is an admitted fact that P.W.1 and P.W.2 were not cross examined. The trial court also passed order without assigning any reasons dismissed the petition. Therefore in order to give fair chance to the petitioner and to ensure fair trial the order passed by the trial Court is liable to be set aside.

6. In view of the same, the Criminal Original Petition stands allowed and the order passed by the learned Judicial Magistrate No.II, Kovilpatti in Crl.M.P.No.9119 of 2024 in C.C.No.225 of 2016 is set aside. The petitioner shall deposit a sum of Rs. 1000/- as costs to each of the witnesses before the trial Court. After deposit of the amount the trial Court is directed to issue summons to the petitioner by fixing the date for cross examination of witnesses and the petitioner shall cross examine the



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witnesses without any further delay. Thereafter the amount deposited before the Court has to be paid to the witnesses. Consequently connected miscellaneous petition stands closed.

28.02.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Judicial Magistrate No.II, Kovilpatti
2. The Inspector of Police
Kovilpatti West Police Station
Kovilpatti
Thoothukudi District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL,J.

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