

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2015

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

CrI.O.P.No.2292 of 2015

A.Suresh

... Petitioner

Vs

Saravanaraja

... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C., seeking to set aside the order made in M.P.No.998 of 2014 in C.C.No.1186 of 2013, on the file of the Fast Track Judge-II, Egmore and reopen the case, the petitioner enabling to cross-examine the PW.1.

For Petitioner : Mr.S.F.Mohamed Yousuf

For Respondent : Mr.A.Madhumathi

O R D E R

On 17.06.2015, this Court has passed the following orders:

"On a perusal of the materials available on record, it is seen that the petitioner is an accused in C.C.No.1186 of 2013, pending on the file of the learned Judicial Magistrate, Fast Track Court-II, Egmore, for an offence, under Section 138 of the N.I. Act.

2. The complainant in this case was examined in chief on 10.07.2013 and on that day, the accused did not cross examine the witness. The evidence was closed and the accused was examined under Section 313 of Cr.P.C., on 03.08.2013. Thereafter, the accused filed an application under Section 311 of Cr.P.C., on 03.02.2014, after a lapse of six months and the learned Magistrate was pleased to allow the application on the very same day, by giving permission to the accused to cross examine the complainant.

3. Thereafter, the case was adjourned on 14.02.2014, 19.03.2014 and 02.04.2014. On all these dates, the accused did not cross examine the witness. Therefore, totally exasperated, the trial Judge closed the evidence on

02.04.2014. Again, the accused has filed the present application under Section 311 of Cr.P.C., in M.P.No.998 of 2014, which was dismissed by the learned Magistrate, by a well considered order. Aggrieved over the same, the accused is before this Court.

4. The learned counsel for the accused relied upon several judgments of the Supreme Court to drive home the point, that an application under Section 311 of Cr.P.C., should be liberally considered. This Court has no quarrel with the proposition laid down in the said judgments. In the facts of this case, the first application filed under Section 311 Cr.P.C., was allowed by the learned Magistrate on the date of filing itself. However, the accused filed to make use of the said opportunity and he did not cross examine the witness. Therefore, the learned Magistrate closed the evidence. The subsequent application filed by the accused, under Section 311 Cr.P.C., was rightly dismissed by the trial Court.

5. At this juncture, the learned counsel for the petitioner submits that if one more opportunity is given to the accused to cross examine the complainant, he would avail of the said opportunity, so that injustice is not suffered by him.

6. I have considered the submissions made by the learned counsel for the petitioner. The petitioner is directed to cross examine PW.1 before the learned Judicial Magistrate, Fast Track Court-II, Egmore, on 26.06.2015. The complainant is directed to be present in Court on that day. However, before entering into the witness box the petitioner is directed to pay a cost of Rs.2,000/- to the complainant. The petitioner/accused shall cross examine the witness and complete the evidence on the same day, since this Court is monitoring the trial."

2. Today, it is represented by the learned counsels appearing for both parties that the said witness has been cross-examined by the accused on 10.07.2015 and that the accused has also paid the costs of Rs.2,000/- to the complainant.

3. In view of the above, nothing survives in this criminal original petition and the same is closed. No costs. Consequently, connected Miscellaneous Petition is also closed.

skm

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Fast Track Judge-II,
Egmore, Chennai.

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Cr1.O.P.No.2292 of 2015



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