

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2017

CORAM

THE HONOURABLE MR. **JUSTICE R.MAHADEVAN**

**Crl.O.P.No.16273 of 2016
and Crl MP No.7920 of 2016**

S.P.Kumaresh alias S.Hasan

... Petitioner

Vs

M/s. Ishvar Communication Pvt Ltd.,
Rep. By its Managing Director Mrs.R.Sudha,
No.2/24, MMDA, Mogappair East,
Chennai 37.

... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to
call for the records and set aside the order dated 19.07.2016 passed in
C.M.P.No.790 of 2016 in S.T.C.No.47 of 2015 by the learned Judicial
Magistrate of the Fast Track Court, Magisterial Level, Ambattur.

For Petitioner : Mr.M.Thirumalai

For Respondent : Mr.R.Sivakumar

ORDER

The present criminal original petition has been filed to call
for the records relating to the order dated 19.07.2016 passed by the
learned Judicial Magistrate of the Fast Track Court, Magisterial Level,
Ambattur in C.M.P.No.790 of 2016 in S.T.C.No.47 of 2015 and set
aside the same.

2. It is the case of the petitioner that the respondent has filed a private complaint against the petitioner herein before the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Ambattur and the same was taken on file as S.T.C.No.47 of 2015. Pending trial, the respondent filed a petition in C.M.P.No.790 of 2016 under Section 311 Cr.P.C. before the learned Magistrate to re-open the case and recall PW1 for marking certain documents. By order dated 19.07.2016, the said petition was allowed on condition that the respondent herein should pay the cost of Rs.1000/- to the petitioner on or before 27.07.2016 and the cross examination has to be done and documents have to be marked on the same date without protracting the proceedings. Aggrieved over the same, the petitioner has come up with the present petition.

3. Heard both sides and perused the materials available on record.

4. The perusal of the order impugned herein would reveal that the respondent/complainant did not file any document at the time of trial and hence, they filed Section 311 Cr.P.C. Petition to reopen the case and recall P.W.1 for the purpose of marking certain documents,

which according to the respondent, are vital documents to substantiate its case. The trial Court, after analysing the entire facts and circumstances of the case, decided the petition on merits and accordingly allowed the petition on condition that the respondent should pay the cost of Rs.1000/- to the petitioner on or before 27.07.2016 and the documents have to be marked on the same day itself, against which, the petitioner is before this Court.

5. During the course of arguments before this Court it is submitted by the learned counsel that the said order has not been complied with by the respondent and the cross examination and the marking of the documents have not taken place as directed by the trial Court. Such being the position, this Court is of the view that nothing survives for adjudication in this matter.

6. Hence, the Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is closed.

WEB COPY

22.06.2017

Index:Yes/No
Internet:Yes/No
Speaking order/non speaking order
jv

R.MAHADEVAN, J

jv

To
The Judicial Magistrate
Fast Track Court, Magisterial Level, Ambattur

Crl.O.P.No.16273 of 2016



WEB COPY **22.06.2017**