

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2016

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. No.25214 of 2016

and Crl.M.P.No.12245 of 2016

D.Sumathi

Petitioner/Accused

vs.

V.Balasubramanian

Respondent/Complainant

Criminal Original Petition filed under Section 482, Cr.P.C. to set aside the order in Crl.M.P.No.4416 of 2016 in STC No.189 of 2013 dated 27.09.2016 passed by the Judicial Magistrate III, Cuddalore and consequently, to recall the witness P.W.1.

For petitioner Mr.T.Elumalai

ORDER

This petition has been filed to set aside the order in Crl.M.P.No.4416 of 2016 in STC No.189 of 2013 dated 27.09.2016 passed by the learned Judicial Magistrate III, Cuddalore and consequently, to recall the witness P.W.1.

2. Heard the learned counsel for the petitioner.

3. The petitioner is facing trial in STC No.189 of 2013 before the Judicial Magistrate No.III, Cuddalore. The prosecution examined the witness on 23.05.2016 and thereafter, the accused did not choose to cross examine the witness. Three months later, the petitioner filed an application in Crl.M.P. No.4416 of 2016 in STC No.189 of 2013 u/s 311 Cr.P.C. to recall the witness, which has been dismissed by the trial Court on 27.09.2016.

4. The learned counsel for the petitioner submitted that on account of boycott of Courts, the accused did not cross examine the complainant.

5. This Court is unable to accept this explanation, because the complainant was examined-in-chief on 23.05.2016, on which date there was no boycott of Courts. It is the duty of the accused to cross examine the witnesses on the day they are

examined-in-chief as held by the Supreme Court in Vinod Kumar v. State of Punjab [2015(1) MLJ (Cr1) 288]. That apart, the accused has not given any sound reasons in his petition u/s 311 Cr.P.C.

In the result, this petition is dismissed. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

gms

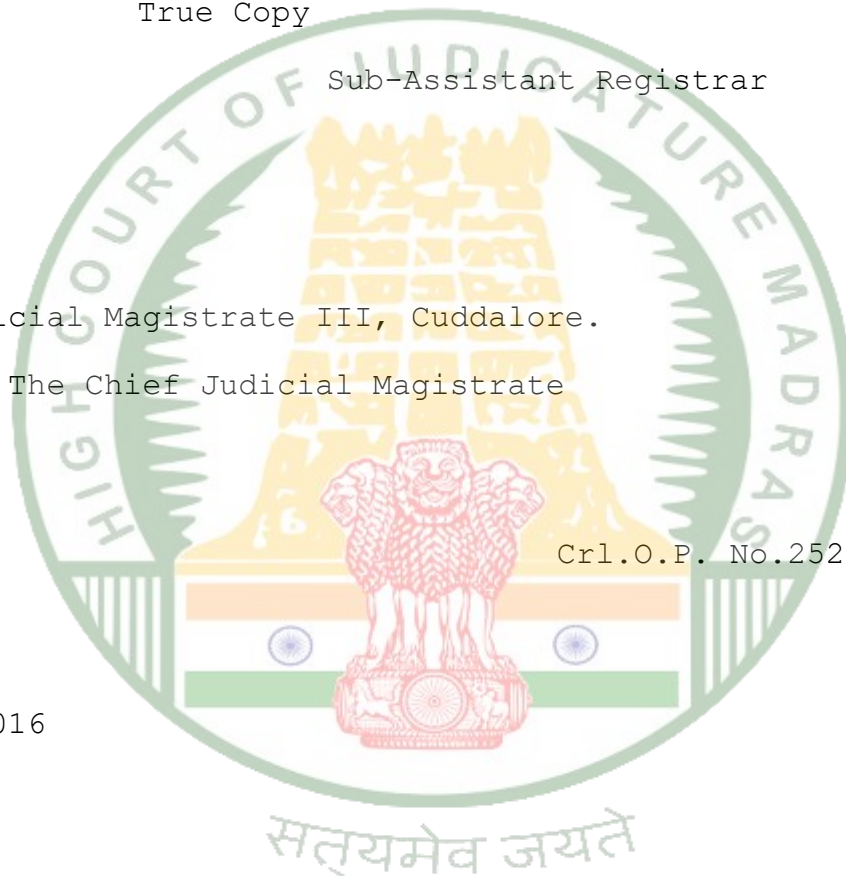
To

1.The Judicial Magistrate III, Cuddalore.

2.Do Thro The Chief Judicial Magistrate
Cuddalore

Cr1.O.P. No.25214 of 2016

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