

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2016

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Crl.O.P.No.26274 of 2016

and

Crl.M.P.No.13074 of 2016

1.Joe Karunanidhi

2.Sheeba Joe

[Petitioners]

Vs

K.N.Shanmuga Sundaram

[Respondent]

Petition filed under Section 482 of the Criminal Procedure Code, to set aside the order dated 29.09.2016 passed in CMP No.6967 of 2016 in C.C.No.275 of 2013 on the file of the Judicial Magistrate, FTC No.I, Coimbatore.

For Petitioners : Mr.K.Govi Ganesan
For Respondent : Mr.C.Emalias,
Additional Public Prosecutor

O R D E R

The petitioners have come up with this Criminal Original Petition to set aside the order dated 29.09.2016 passed in CMP No.6967 of 2016 in C.C.No.275 of 2013 on the file of the Judicial Magistrate, FTC No.I, Coimbatore.

2.It is stated in the affidavit filed in support of this petition that the respondent had filed a private complaint against the petitioners under Section 200 Cr.PC before the Judicial Magistrate Court-II, Coimbatore for the alleged offences punishable under Section 138 of the Negotiable Instruments Act, and the said complaint was taken on file by the learned Magistrate and summons were issued to the petitioners. Subsequently, the complaint was transferred to the file of the Fast Track Judicial Magistrate Court-I, Coimbatore and renumbered as C.C.No.275 of 2013. The trial also commenced and for continuation of cross examination of witnesses, the matter was adjourned to 02.05.2016. On that date, since the second petitioner was admitted in the hospital due to ill health and

the first petitioner was taking care of her, they could not attend the Court. Their counsel represented before the Court and asked for time for cross examination, but the learned Magistrate closed the evidence of PW1 and posted the case for taking up examination of the other side. Therefore, the petitioners filed CMP No.6967 of 2016 on 20.05.2016 under Section 311 of Cr.PC for recalling PW1 for the purpose of further cross examination, but the same was dismissed by the Magistrate without proper consideration. Hence this petition.

3.Mr.C.Emalias, learned Additional Public Prosecutor, takes notice for the respondent.

4.Heard both sides.

5.Considering the facts and circumstances of the case, the petitioners are directed to deposit a sum of Rs.50,000/- (Rupees Fifty Thousand Only) to the credit of C.C.No.275 of 2013 on the file of the Judicial Magistrate, Fast Track Court No.I, Coimbatore, within a period of two weeks from the date of receipt of a copy of this order. On such deposit being made, the petition in CMP No.6967 of 2016 filed under Section 311 Cr.PC to recall PW1 for the purpose of further cross examination, shall be taken up by the Judicial Magistrate, FTC No.I, Coimbatore to re-hear the P.W.1 and complete the cross examination within three weeks thereafter.

6.The Criminal Original Petition is disposed of accordingly. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

KM
To

The Judicial Magistrate, FTC No.I, Coimbatore.

+1cc to Mr.K.Govi Ganesan, Advocate, S.R.No.72456

SSI (CO)
BB(30/12/2016)

Cr1.O.P.No.26274 of 2016
and
Cr1.M.P.No.13074 of 2016