

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2016

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

Cr1.O.P.No.26411 of 2016

S.Rajathi

... Petitioner

Vs

Rajkumar

... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the order passed by the learned Judicial Magistrate No.I, Tiruppur in C.M.P.No.2908 of 2016 in S.T.C.No.1067 of 2006 dated 22.10.2016 and to re-open the evidence of P.W.3.

For Petitioner : Mr.B.Nedunchezian

ORDER

The present criminal original petition has been filed to set aside the order passed by the learned Judicial Magistrate No.I, Tiruppur, in C.M.P.No.2908 of 2016 in S.T.C.No.1067 of 2006 dated 22.10.2016 and to re-open the evidence of P.W.3.

2. It is the case of the petitioner that a private complaint was lodged by the respondent as against the petitioner before the learned Judicial Magistrate No.I, Tiruppur and the same was taken on file as S.T.C.No.1067 of 2006. Pending trial, the petitioner filed a petition in C.M.P.No.2908 of 2016 before the learned Magistrate to re-open the case for the purpose of cross examination of P.W.3. Learned Magistrate dismissed the said petition on the ground that the petition was filed belatedly only to drag on the proceedings. Challenging the same, the petitioner has come up with the present petition.

3. Learned counsel appearing for the petitioner submitted that since some material documents are required to be produced by P.W.3 to elicit the truth, he has to be cross examined further. However, without considering the same, the learned Magistrate dismissed the said petition.

4. Considering the facts and circumstances of the case and considering the submission made by the learned counsel appearing for the petitioner, this Court is of the view that the petition could be allowed by imposing conditions.

5. Accordingly, the order of learned Judicial Magistrate No.I, Tiruppur, dated 22.10.2016 made in C.M.P.No.2908 of 2016 in S.T.C.No.1067 of 2006 is set aside and the criminal original petition is allowed and the petitioner is permitted to re-call P.W.3, on his depositing a sum of Rs.50,000/- (Rupees fifty thousand only) to the credit of C.M.P.No.2908 of 2016 in S.T.C.No.1067 of 2006 on the file of the learned Judicial Magistrate No.I, Tiruppur, within two weeks from the date of receipt of a copy of this order, failing which, this order gets vacated automatically. On such deposit being made, the cross examination of P.W.3 shall be completed within a period of three weeks from the date of deposit of the said amount. The criminal original petition is ordered accordingly.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

sbi

To

1.The Judicial Magistrate No.I,
Tiruppur.

+1cc to M/s B.Nedunchezhiyan, Advocate Sr.72526

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AK (CO)
RVR 20/01/2017

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