

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2017

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

Crl.O.P.No.8509 of 2017

&

Crl.M.P.No.6096 of 2017

Lavakumar ... Petitioner/Petitioner/
Complainant
Versus
R.Srinivasan ... Respondent/Respondent/
Accused

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the condition imposed on the petitioner in C.M.P.No.5456 of 2016 on the file of the learned Judicial Magistrate No.III, Salem, Salem District dated 01.02.2017 in C.C.No.6 of 2013 on the file of the learned Judicial Magistrate No.III, Salem, Salem District.

For Petitioner : Mr.B.Vasudevan

O R D E R

This Criminal Original Petition has been filed to set aside the condition imposed on the petitioner in C.M.P.No.5456 of 2016 in C.C.No.6 of 2013 on the file of the learned Judicial Magistrate No.III, Salem, Salem District dated 01.02.2017.

2. It is the case of the petitioner that he filed C.M.P.No.5456 of 2016 before the learned Judicial Magistrate No.III, Salem, Salem District, for producing certain documents. By an order dated 01.02.2017, the said petition was allowed by the learned Magistrate and imposed condition that the petitioner has to pay Rs.500/- towards cost to the respondent on or before 08.02.2017, failing which, the petition shall stand dismissed and adjourned the matter. However, on 09.02.2017, when the matter was called, the petitioner filed memo seeking permission to deposit the condition amount but the same was rejected by the learned Magistrate. Challenging the said order, the petitioner has come up with the present petition.

3. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

4. Considering the facts and circumstances of the case, this Court is of the opinion that an opportunity should be given to the petitioner/accused to cross examine D.W.1, in order to enable the Court below to arrive at a correct decision in the case.

5. Accordingly, this Criminal Original Petition is ordered in the following terms:

(i) The order dated 01.02.2017 passed by the learned Judicial Magistrate No.III, Salem, Salem District in C.M.P.No.5456 of 2016 in C.C.No.6 of 2013 is set aside.

(ii) The petitioner is directed to deposit a sum of Rs.1,000/- (Rupees One Thousand only) to the Legal Services Authority, Chennai, within a period of one week from the date of receipt of a copy of this order, failing which, this order shall stand vacated automatically.

(iii) On such deposit within the stipulated period, the petitioner is permitted to recall D.W.1 for the purpose of cross examination.

(iv) The cross examination of D.W.1 shall be completed within a period of two weeks from the date of deposit of the said amount.

Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

sri

To

1. The Judicial Magistrate No.III,
Salem, Salem District.
2. The Public Prosecutor,
High Court, Madras.
3. The Legal Services Authority,
Chennai (For Costs).

Cr1.O.P. No.8509 of 2017

PVS (CO)
CA(02/05/2017)