

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2017

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

Crl.O.P.No.5619 of 2017

and

Crl.MP.No.4221 of 2017

V.Jagadeesan Petitioner/Accused

Vs

S.Baskar Respondent/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the order dated 01.03.2017 passed in M.P.No.316 of 2017 in CC No.12570 of 2014 on the file of the Fast Track Court No.II, Metropolitan Magistrate Court, Egmore @ Allikulam, Chennai.

For Petitioner : M/s.D.N.Dhurgasha

O R D E R

The present Criminal Original Petition has been filed to set aside the order dated 01.03.2017 passed by the Fast Track Court No.II, Metropolitan Magistrate, Egmore @ Allikulam, Chennai in M.P.No.316 of 2017 in CC No.12570 of 2014.

2. It is the case of the petitioner that he is facing trial for the alleged offence punishable under Section 138 of the Negotiable Instruments Act in CC No.12570 of 2014 on the file of the Fast Track Court No.II, Metropolitan Magistrate at Egmore @ Allikulam, Chennai. During the course of trial, the respondent was examined as PW1 and he was cross examined by the petitioner's counsel and certain documents were also marked on his side. Thereafter, the case stood adjourned for defence side witness. While so, the petitioner herein filed a petition under Section 315 Cr.P.C, which was allowed by order dated 07.12.2016. When the case was called on 31.01.2017, due to non-appearance of the petitioner, he was called absent and the defence side witness was closed and a non bailable warrant was issued against him. Subsequently, by order dated 1.3.2017, the said non bailable warrant issued against him was recalled, however, the petitioner was not permitted to reopen the case and recall the defence side witness. Aggrieved over the same, the present petition came to be filed before this Court.

3. Heard the learned counsel appearing for the petitioner and perused the materials placed before this Court.

4. On a perusal of the order impugned herein, it could be seen that the learned Magistrate has not adduced sufficient reason for dismissing the petition filed by the petitioner praying to reopen the case and recall defence side witness. In my opinion, the reasons are required to be recorded in the order to enable the litigants to know the reasons which weighted with the mind of the Court in determining the question of fact and law. On this ground alone, the impugned order is liable to be quashed.

5. Accordingly, this Criminal Original Petition is allowed and the order dated 01.03.2017 passed by the Fast Track Court No.II, Metropolitan Magistrate, Egmore @ Allikulam, Chennai in MP.No.316 of 2017 in CC No.12570 of 2014 is set aside. The matter is remanded back to the trial court for fresh consideration. The learned Magistrate shall permit the petitioner to recall defence side witness and proceed with the trial in accordance with law. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

1.The Fast Track Court No.II, Metropolitan Magistrate Court,
Egmore @ Allikulam, Chennai.

+2cc to Mr.D.N.Dhurgesha, Advocate sr.25606

Cr1.O.P.No.5619 of 2017

kgk(co)
ss(27/4/2017)

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