

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2017

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

Crl.O.P.No.5945 of 2017

and

Crl.MP.No.4458 of 2017

C.Dayanidhi

... Petitioner/Petitioner/
Accused

Vs

M/s.Sri Guruvayurappan Chit Funds
Pvt. Limited
rep by power agent
N.Sivados

... Respondent/Respondent/
Complainant

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records of the Metropolitan Magistrate, Fast Track Court IV, George Town, Chennai pertaining to its order dated 06.02.2017 passed in Crl.MP.No.5319 of 2016 in CC No.578 of 2014, set aside the same and further permit the accused to cross examine PW1 under Section 311 Cr.P.C.

For Petitioner : Mr.P.V.Sudakar

For Respondent : No Appearance

ORDER

The present criminal original petition has been filed to call for the records relating to the order dated 06.02.2017 passed by the learned Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai in Crl.MP.No.5319 of 2016 in CC No.578 of 2014 and set aside the same and consequently, permit the petitioner/accused to cross examine PW.1.

2. It is the case of the petitioner that he is facing trial in CC No.578 of 2014 on the file of the learned Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai. While so, he filed CMP.No.5319 of 2016 under Section 311 Cr.P.C to recall P.W.1 for the purpose of cross examination. However, by order dated 06.02.2017, the learned Magistrate dismissed the said petition. Hence, this petition.

3. Learned counsel for the petitioner submitted that though the respondent / complainant has endorsed no objection in the petition for permitting the petitioner to cross examine P.W.1, the trial court did not accept the same and by the impugned order, rejected the request of the petitioner. Therefore, learned counsel seeks indulgence of this court to permit the petitioner to recall P.W.1 for the purpose of cross examination.

4. Despite the service of notice and the name of the respondent having been printed in the cause list, there is no representation for the respondent either in person or through the learned counsel.

5. Considering the facts and circumstances of the case and also taking note of the no objection endorsed by the respondent / complainant in the petition, which was also admitted by the trial Court, this Court, in order to provide an opportunity to the petitioner/ accused to defend his case, is inclined to set aside the order impugned herein, subject to payment of cost.

6. Accordingly, the order dated 06.02.2017 passed by the learned Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai in Crl.MP.No.5319 of 2016 in CC No.578 of 2014 is set aside on condition to pay a sum of Rs.2,000/- towards cost to the Tamil Nadu Legal Services Authority, Chennai, by the petitioner within a period of one week from today. Thereafter, the petitioner is directed to appear before the trial court on 05.07.2017, on which date, cross examination of P.W.1 be done by the petitioner's side. It is made clear that no further adjournment be granted and no section 311 Cr.P.C petition be entertained by the trial court.

7. This Criminal Original Petition is disposed of in the above terms. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To
The Metropolitan Magistrate,
Fast Track Court No.IV, George Town,
Chennai.

+1cc to Mr.P.V.Sudakar,Advocate sr.44372

Cr1.O.P.No.5945 of 2017

ss (27/6/2017)



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