

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.04.2017

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

Crl.O.P. Nos.2148 & 2169 of 2017
& Crl.M.P.Nos.1536 & 1545 of 2017

1.M/s.Yogam Enterprises,
Partnership Firm,
No.29, First Floor,
Nanamitharuvar Koil Ariskara Street,
Madurai - 625 001.
By its Managing Partner Elangovan

2.Elangovan .. Petitioners
[in both Crl.O.P.s]

versus

M/s.Fomra Electricals,
Partnership Firm,
New No.250, Old No.123,
Govindappa Naickan Street,
Chennai - 600 001.
By its Power of Attorney Holder S.Chari .. Respondent
[in both Crl.O.P.s]

COMMON PRAYER : Criminal Original Petitions filed under Section 482 Cr.P.C. to call for the records and set aside the orders in Crl.M.P.No.6720 of 2016 in C.C.No.607 of 2016 and Crl.M.P.No.6721 of 2016 in C.C.No.606 of 2016, dated 19.01.2017 respectively, on the file of the learned Metropolitan Magistrate, Fast Track Court-IV, George Town, Chennai, by allowing the Original Petitions filed by the petitioners.

For Petitioners : Mr.B.R.Shankaralingam
[in both Crl.O.P.s]
For Respondent : Mr.K.Bakthavatchalu
[in both Crl.O.P.s]

C O M M O N O R D E R

The present Criminal Original Petitions have been filed to call for the records and set aside the orders in Crl.M.P.No.6720 of 2016 in C.C.No.607 of 2016 and Crl.M.P.No.6721 of 2016 in C.C.No.606 of 2016, dated 19.01.2017 respectively, on the file of the learned Metropolitan Magistrate, Fast Track Court-IV,

George Town, Chennai, by allowing the Original Petitions filed by the petitioners.

2. The case of the petitioners is that private complaints were lodged by the respondent as against the petitioners and the same were taken on file as C.C.Nos.606 and 607 of 2016 by the learned Metropolitan Magistrate, Fast Track Court-IV, George Town, Chennai. On 23.05.2016, the complainant was examined in Chief and the case was posted for cross examination of P.W.1. Thereafter, the learned counsel for the petitioners met with an accident. On 30.08.2016, suo-moto, the trial court closed the evidence, without giving an opportunity to the petitioners. As the cross examination of P.W.1 was not fully completed, the petitioners filed Crl.M.P.Nos.6720 and 6721 of 2016 before the learned Magistrate to re-open and re-call P.W.1 for the purpose of continuation of his cross examination. However, by order dated 19.01.2017, the learned Magistrate dismissed the said petitions stating that though the petitioners were provided ample opportunity to proceed with cross examination, they failed to avail the same and the petitions were filed only to drag on the proceedings. Challenging the same, the petitioners have come up with the present petitions.

3. Learned counsel appearing for the petitioners submitted that the inability of the petitioners to complete the cross examination as directed by the Trial Court, was neither wilful nor wanton, but only due to the fact that their counsel met with an accident. Therefore, the orders passed by the Trial Court are against the principles of natural justice, as it is a denial of the right of the petitioners to be heard.

4. Considering the facts and circumstances of the case, this Court is inclined to set aside the order dated 19.01.2017 and the petitioners are permitted to re-open and re-call P.W.1 for continuation of their cross examination. The cross examination of P.W.1 shall take place on 13.04.2017, on which date, P.W.1 shall be cross-examined and no petition under Section 311 Cr.P.C. be entertained after cross examination. The learned Metropolitan Magistrate, Fast Track Court-IV, George Town, Chennai is directed to expedite the trial of the case in C.C.Nos.606 & 607 of 2016 pending on his file and dispose of the same as expeditiously as possible.

5. The Criminal Original Petition is disposed of accordingly. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

sri

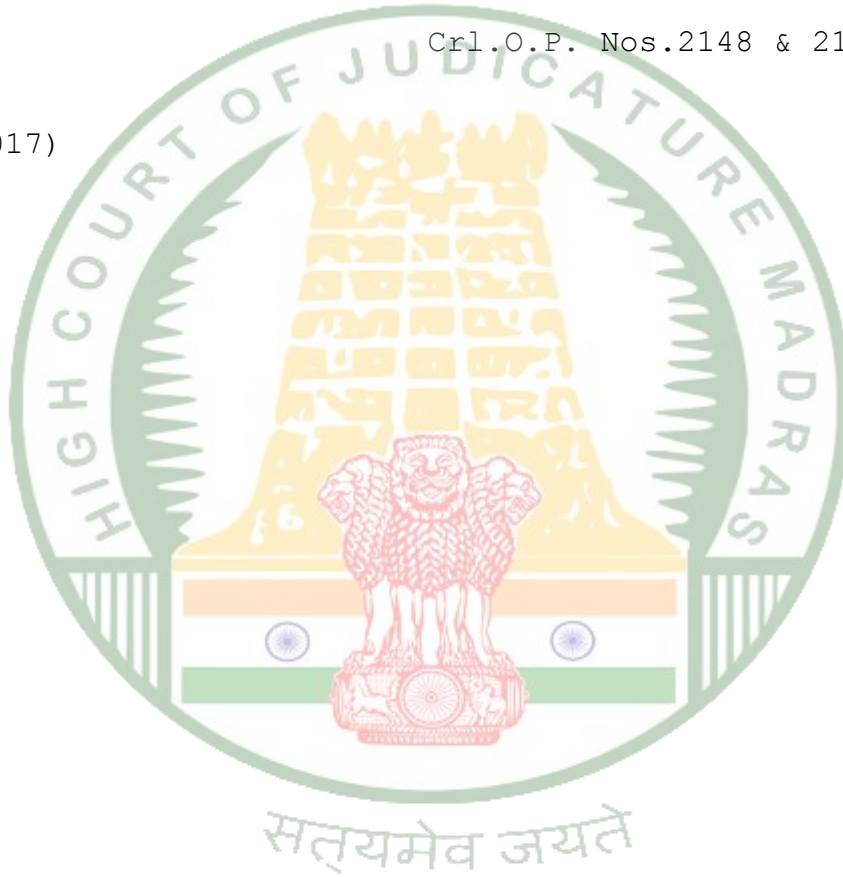
To

The Metropolitan Magistrate,
Fast Track Court-IV,
George Town,
Chennai.

+lcc to Mr.K. Bakthavachalu, Advocate Sr. 19964

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EV(CO)
VR(21/4/2017)



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