

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2017

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

Crl.O.P.No.30270 of 2011

and M.P.No.1 of 2011

1.M/s.Sakthi Murugan Textiles,
rep. By its Partner
K.P.Subramani

2.K.P.Subramani

3.Jayakumar

4.N.P.Kanagaraj

5.R.Anandhakumar

... Petitioners

Vs

K.A.Balu @ Balasubramani
rep. By Power of attorney
B.Vijayaragavan

... Respondent

Criminal Original Petition filed under Section 482
Cr.P.C. to set aside the order dated 10.11.2011 made in
C.M.P.No.2632 of 2011 in C.C.No.287 of 2011 on the file of the
learned Chief Judicial Magistrate, Erode.

For Petitioners: Mr.M.Guruprasad

For Respondent: Mr.R.John Sathyan

ORDER

The present criminal original petition has been filed
to set aside the order dated 10.11.2011 made in Crl.M.P.No.2632
of 2011 in C.C.No.287 of 2011 on the file of the learned Chief
Judicial Magistrate, Erode.

2. It is the case of the petitioners that a private
complaint was lodged by the respondent as against the
petitioners before the learned Chief Judicial Magistrate, Erode,
and the same was taken on file as C.C.No.287 of 2011. Pending
trial, the petitioners filed a petition in Crl.M.P.No.2632 of
2011 before the learned Magistrate to re-call P.W.1. Learned
Magistrate dismissed the said petition on the ground that the
petitioners have deliberately protracted the proceedings for
over a year without cross examining the witness. Challenging

the same, the petitioners have come up with the present petition.

3. Learned counsel appearing for the petitioners submitted that since the petitioners did not get the necessary documents, they could not cross examine P.W.1. However, without considering the same, the learned Magistrate dismissed the said petition.

4. I have also heard the learned counsel appearing for the respondent and perused the entire materials available on record including the order of the learned Magistrate.

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

6. Accordingly, the order of learned Chief Judicial Magistrate, Erode, dated 10.11.2011 made in Crl.M.P.No.2632 of 2011 in C.C.No.287 of 2011 is set aside and the petitioners are permitted to re-call P.W.1 on the following conditions:-

(i) The petitioners shall deposit a sum of Rs.1,00,000/- (Rupees one lakh only) to the credit of Crl.M.P.No.2632 of 2011 in C.C.No.287 of 2011 on the file of the learned Chief Judicial Magistrate, Erode, within a period of four weeks from the date of receipt of a copy of this order;

(ii) The petitioners shall pay a sum of Rs.3,000/- (Rupees three thousand only) towards costs to the respondent within a period of four weeks from the date of receipt of a copy of this order;

On such compliance within the stipulated period, the petitioners shall file a petition under Section 311 Cr.P.C. afresh and the same shall be considered within a period of two weeks thereafter by the learned Chief Judicial Magistrate, Erode. The criminal original petition is ordered accordingly. Consequently, Miscellaneous Petition is closed.

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-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

sbi

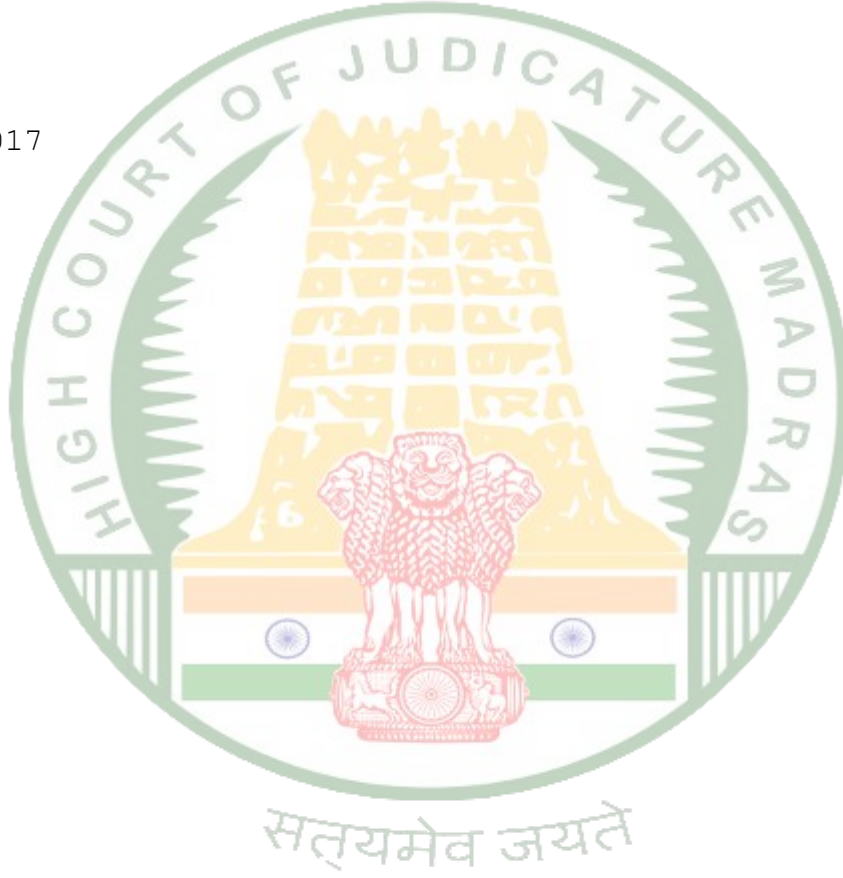
To

1.The Chief Judicial Magistrate,
Erode.

+1 cc to Mr.M.Guruprasad Advocate sr 5021

CrI.O.P.No.30270 of 2011

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