

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED: 03.08.2017****CORAM****THE HONOURABLE Mr.JUSTICE M.S.RAMESH****Crl.O.P.No.25501 of 2016**

D.G.Jayaseelan

... Petitioner

Vs

Senthil Kumar.

... Respondent

Prayer: This petition filed under section 482 of Criminal Procedure Code, praying to set aside the order passed by learned Judicial Magistrate, No.1, Udumalaipet, in Crl.M.P.No.9091/2015 dated 15.07.2016 made in C.C.No.116 of 2010 and direct the learned Judicial Magistrate No.1, Udumalaipet, to recall the respondent herein.

For Petitioner : Mr.B.Nambi Selvan

For Respondent : Mr.N.Umapathi

ORDER

The Petitioner's request to recall the complainant and cross examine him under Section 311 of Code of Criminal Procedure was rejected on the ground that the complaint is pending for a long time and only to protract the proceedings the petition has been filed. Challenging the same, the present petition is filed.

2. It is true that the Hon'ble Supreme Court in various cases condemned the practices of vexatious applications filed under Section 311 of Cr.P.C to protract the proceedings.

3. Nevertheless, the learned counsel for the petitioner submitted that the petitioner may be given an opportunity for cross examining the complainant to prove that the allegation of the respondent in the complaint is false.

4. In view of the submissions made by the petitioner, by giving another opportunity to cross examine the complainant, by fixing the time frame for completing the cross examination, will not cause prejudice to the prosecution and by fixing such time frame, the proceedings may not get unjustifiably prolonged.

5. Hence, the order passed in CrI.M.P.No.9091 of 2015 in C.C.No. 116 of 2010, dated 15.07.2016 by the learned Judicial Magistrate No.I, Udumalaipet, is set aside. Consequently, the learned Judicial Magistrate No.I, Udumalaipet, is directed to permit the petitioner to recall the complainant and cross examine him on 21.08.2017. It is made clear that the petitioner shall complete the

cross examination on the same day.

6. With the above observations and directions, the Criminal Original Petition stands disposed of.

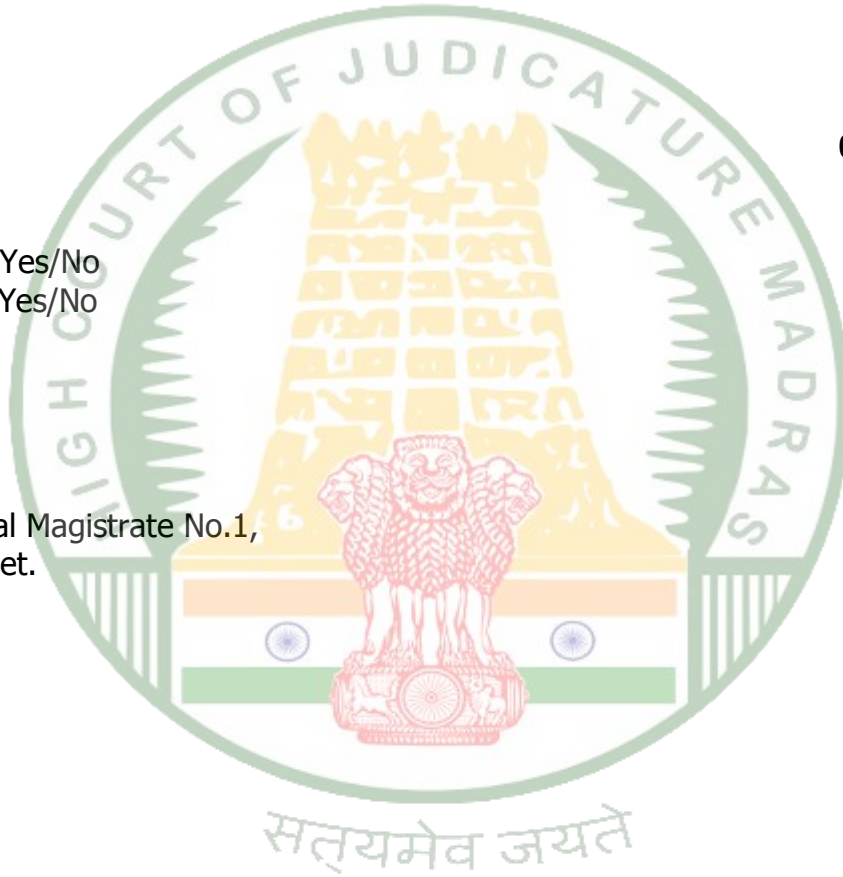
03.08.2017

Index : Yes/No
Internet : Yes/No

mrp

To

The Judicial Magistrate No.1,
Udumalaipet.



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M.S.RAMESH, J.

mrp



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