



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:30.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR
CRL.O.P. (MD)No.14530 of 2017 and
Crl.M.P(MD).No.9680 of 2017

WEB COPY

Palaniyandi

: Petitioner/Accused

-Vs-

S.S.Alagar (died)
Kodeeswaran

: Respondent

PRAYER: Criminal Original petition filed under Section 482 of Criminal Procedure Code, to set aside the order passed on 17.08.2017 in Crl.M.P.No.3791 of 2017 in STC.No.237 of 2016 on the file of the Fast Track Court No.I, (Magistrate level), Madurai, consequently the order passed on 04.09.2017 in Crl.M.P.No.3686 of 2017.

For Petitioner

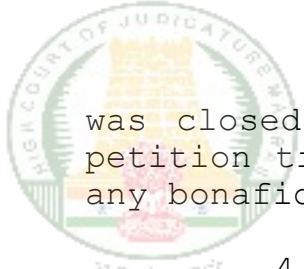
: Mr.N.Ganesan

O R D E R

This petition is filed to set aside the order passed on 17.08.2017 in Crl.M.P.No.3791 of 2017 in STC.No.237 of 2016 on the file of the Fast Track Court No.I, (Magistrate level), Madurai, consequently the order passed on 04.09.2017 in Crl.M.P.No.3686 of 2017

2.The petitioner is the accused in a private complaint filed under Section 138 of Negotiable Instruments Act in STC.No.237 of 2016, on the file of the Fast Track Court No.I, (Magistrate level), Madurai. The private complaint was given long back and the de facto complainant was examined and on the death of the original complainant, the petitioner has filed a petition to recall the substituted complainant for cross examination in Crl.M.P.No.3791 of 2017. The said petition was dismissed by the trial Court mainly on the ground that the petitioner has not taken any steps to cross examine the original complainant and that permission cannot be given to him to cross examine the substituted complainant after a long delay. The lower Court also observed that the substituted complainant, cannot be cross examined by the petitioner. The view taken by the lower Court appears to be correct. The petitioner is the accused and the original complainant was examined in chief. It is not in dispute that the complainant was not cross examined despite opportunities were given to the petitioner. It was therefore, the evidence of complainant was closed on suo motu on 24.06.2013. The original complainant died subsequently.

3. When the matter was posted for arguments, the petitioner filed a petition to reopen and to recall the substituted complainant and then to grant permission to examine defence side evidence. Having regard to the fact that the petitioner did not file a petition to cross examine PW.1, after the evidence



was closed on 24.06.2013 and that the petitioner has not filed a petition till it was posted for arguments, this Court does not find any bonafides in the petition.

4. Having regard to the facts and circumstances, this Court has no reason to interfere with the order passed by the trial Court. Hence, the Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate No.I,
(Fast Track Court at Magistrate Level),
Madurai.

2.-do- thro' The Chief Judicial Magistrate,
Madurai.

+2cc to M/S.N.Ganesan, Advocate SR.No. 84176

CRL.O.P.(MD)No.14530 of 2017 and
CrI.M.P(MD) .No.9680 of 2017
30.10.2017

trp
JM/KK/SAR 1/16.11.2017/2P/5C