

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 03.05.2017

CORAM

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THE HON'BLE MR.JUSTICE P.N.PRAKASHCrl.O.P. (MD) No.16222 of 2016
& Crl.M.P. (MD) No.7885 of 2016

T.R.Suresh Babu

... Petitioner/Accused

-vs-

J.Ephrahim George

... Respondent/Complainant

Prayer: Criminal Petition filed under Article 482 of the code of the Criminal Procedure to call for the records and set aside the impugned order in Cr.M.P.No. 290 of 2016 dated 01.03.2016 in S.T.C.No. 400 of 2012 on the file of Learned Judicial Magistrate No.II(Fast Track), Madurai.

For Petitioner : Mr.AK.Azagarsami

O R D E R

The petitioner is an accused in S.T.C.No.400 of 2012 before the learned Judicial Magistrate No.II (Fast Track), Madurai. The petitioner filed Cr.M.P.No.290 of 2016 in STC No.400 of 2012 under Section 311 Cr.P.C. for recalling P.W.1, which was allowed by the Magistrate on 01.03.2016 on the condition that the petitioner shall deposit a sum of Rs.700/- as cost on or before 14.03.2016. Since the petitioner did not pay the cost, the petition was dismissed on 15.03.2016. Challenging the said order, the petitioner/accused is before this Court.

2. Heard the learned counsel for the petitioner.

3. Learned counsel for the petitioner submitted that the petitioner should be given one more opportunity to cross examine P.W.1 inasmuch as the cost was not paid in time, because, the petitioner was sick.

4. I am unable to countenance this submission, because, the Trial Court had given sufficient time for the petitioner/accused to pay the cost. The petitioner could have filed a petition for extension of time before the Trial Court before 15.03.2016, which he did not do. That apart, the time limit fixed by the Trial Court expired on 15.03.2016 and this petition for setting aside the order of the Trial Court has been filed only on 26.08.2016, which itself shows that the accused wants to somehow prolong the prosecution in STC No.400 of 2012.



5. Therefore, this petition is devoid of merits and the same is accordingly dismissed. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(Writ)

/True Copy/

Sub Assistant Registrar

To:

The Judicial Magistrate No.II (Fast Track),
Madurai.

+1cc to M/S.AK.AZAGARSAMI, ADVOCATE SR.No. 55563

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SDS/RSK/SAR 1/23.05.2017/2P/3C