



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2017

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THE HON'BLE MR.JUSTICE G.CHOCKALINGAM

Crl.O.P.(MD) Nos.20092 and 20096 of 2016
and
Crl.M.P.(MD)Nos.10075 and 10115 of 2016

A.Balamurugan : Petitioner in both the petitions

-vs-

Ramamoorthy : Respondent in both the petitions

Prayer in Crl.O.P(MD)No.20092 of 2016: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed by the learned Judicial Magistrate No.1, Fast Track Court at Madurai, Magisterial Level, Passed in Crl.M.P.No.5561 of 2016 in STC No.386 of 2012, dated 31.08.2016.

Prayer in Crl.O.P(MD)No.20096 of 2016: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed by the learned Judicial Magistrate No.1, Fast Track Court at Madurai, Magisterial Level, Passed in Crl.M.P.No.5562 of 2016 in STC No.386 of 2012, dated 31.08.2016.

For Petitioner : Mr.G.Rajan

For Respondent : Mr.R.Sevugaraja

COMMON ORDER

These petitions are filed, seeking to set aside the order passed by the learned Judicial Magistrate No.1, Fast Track Court at Madurai, Magisterial Level, in Crl.M.P.Nos.5561 and 5562 of 2016 in STC No.386 of 2012, dated 31.08.2016.

2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal side) appearing for



3. When the matter was taken up on 22.12.2016, this Court passed the following order:

"3. The learned counsel appearing for the petitioner has submitted that the court below failed to appreciate the grounds made by the petitioner and mechanically dismissed the applications filed under Section 91 of Cr.P.C to send for the documents filed in C.C.No.24 of 2014 and the petition filed under section 311 of Cr.P.C to recall PW1 for cross examination and the court below has also failed to consider the fact that as per Section 311 Cr.P.C, the court may recall a witness at any stage of the case, enquiry or trial and the court below ought to have seen the necessity of filing petition under Section 311 of Cr.P.C. Hence, the orders passed by the court below have to be set aside and the criminal original petitions are to be allowed. The learned counsel further submitted that the petitioner is ready to deposit the entire cheque amount to show his bona fide before the trial court.

4. The learned Counsel appearing for the respondent would contend that Sections 91 and 311 of Cr.P.C applications were filed to send for documents and to recall PW1, which are not maintainable in law. Hence, he prayed for the dismissal of the petitions.

5. In view of the above circumstances, this court is of the considered view that both **petitions are allowed** on condition that the petitioner shall deposit the entire cheque amount before the trial court within a period of three weeks from today. On such deposit is being made by the petitioner, the trial court is directed to post the case on day today basis and dispose of the same, on merits and in accordance with law, within a period of three weeks thereafter.

Post the matter for reporting compliance on 18.01.2017".

4. Today the matters are posted for reporting compliance. The learned counsel represented that the petitioner has not complied with the order of this Court and he has not deposited the amount as per the direction.

5. In view of the fact that the order of this Court has not been complied with by the petitioner, these Criminal Original Petitions are dismissed. Consequently connected CrI.M.P.(MD) No. 10075 and 10115 of 2017 are also dismissed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/



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To,

The Judicial Magistrate No.I, Fast Track Court at
Magisterial Level, Madurai.

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+1CC to Mr.G.Rajan, Advocate Sr.No.6208

+2CC to Mr.R.Sevugaraja, Advocate Sr.No.6058 & 6059

GJM/SV/MMS/17.2.17-3p-5C

Cr1.O.P.(MD) Nos.20092 and 20096 of 2016
and
Cr1.M.P.(MD) Nos.10075 and 10115 of 2016

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