



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.09.2018**

CORAM:

THE HONOURABLE MR.JUSTICE **N.ANAND VENKATESH**

Crl.O.P. [MD] .No.13773 of 2017

and

Crl.M.P. [MD] .No.9268 of 2017

Thirupathi : Petitioner/Complainant
Vs.
Abuthaheer : Respondent/Accused

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records in the order IV-Additional District and Sessions Judge, Madurai in Crl.R.P.No.13 of 2017 dated 24.08.2017 and confirmed the order in Cr.M.P.No.5384 of 2006 in STC.No.447 of 2016 on the file of the learned Judicial Magistrate Fast Track Court No.II, Madurai.

For Petitioner : Mr.J.Gunaseelanmuthaiah
For Respondent : Mr.S.M.A.Jinnah

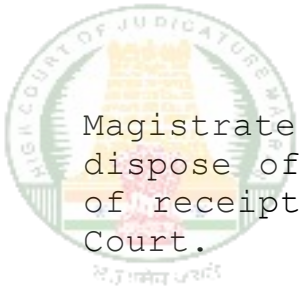
ORDER

The criminal original petition has been filed as against the order of the Court below dismissing an application filed by the petitioner to recall P.W.1 and to mark two documents.

2. It is seen from the records that the petitioner is the complainant in a complaint filed under Section 138 of the Negotiable Instrument Act. The petitioner had examined himself as P.W.1. When the matter was at the stage of cross examination, the petitioner realised that two of the documents has not been marked in the course of evidence. Therefore, the petition was filed under Section 311 of Cr.P.C., to recall the petitioner for the purpose of marking those two documents. The said petition has been dismissed by the Court below.

3. This Court is satisfied with the reason, that the petitioner, as the complainant, must be given sufficient opportunity to establish his case. Even after marking of the two documents by the petitioner, the respondent/accused is always entitled to cross-examine the petitioner, also insofar as the documents, that are sought to be marked in this case.

4. In the result, the order of the Court below in Cr.M.P.No.5384 of 2006 is hereby set aside and the Court below is directed to recall P.W.1 for the purpose of marking the two documents referred to in the petition. Since the matter is of the year 2016, there will be a direction to the learned Judicial



Magistrate No.II, Fast Track Court(Magistrate level), Madurai to dispose of the case within a period of four months from the date of receipt of copy of this order and report the same before this Court.

5. Accordingly, the criminal original petition is allowed with the above directions. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1.The IV-Additional District and Session Judge, Madurai.

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

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.J.Gunaseelanmuthaiah, Advocate Sr.No.82417

+1cc to Mr.S.M.A.Jinnah, Advocate Sr.No.82950

SJI

VB/RSK/SAR4/19.09.2018/2P/6C

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and

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