IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2018

CORAM

THE HONOURABLE Mr.JUSTICE M.S.RAMESH

Crl.O.P.No. 23046 of 2017 &
Crl.M.P.No.13405 of 2017

K.Karthikeyan .. Petitioner/Complainant

Vs

1.D.M.V. Technologies Private Limited,
Rep by its Managing Director Mr.R.S.Dravidamani,
No.157/176, J.N.Road,
Thiruvallur District - 602 001.

2.Mr.R.S.Dravidamani .. Respondents/Accused

Prayer:Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to set aside the order dated 26.07.2017 passed in C.M.P.No.1256 of 2017 in S.T.C.No.74 of 2015 on the file of the Fast Track Court, Magistrate Level at Thiruvallur and to allow the Criminal Original Petition.

For Petitioner : Mr.C.Prabakaran

For Respondent 1 : No appearance

For Respondent 2 : M.P.Saravanan

O R D E R

This petition has been filed to set aside the order dated 26.07.2017 passed in C.M.P.No.1256 of 2017 in S.T.C.No.74 of 2015 on the file of the Fast Track Court, Magistrate Level at Thiruvallur.

2. Aggrieved against the order under Section 311 Cr.P.C., rejecting the petitioner's request to recall the complainant for the purpose of marking certain documents, the present petition has been filed. In my view, the reason for making such an application is that during the course of cross examination, the petitioner/complainant was specifically questioned as to whether he would be able to produce Auditor Certificate to prove the transaction between him and accused, for which, the petitioner has agreed to produce the same. Under these circumstances, the application under Section 311 Cr.P.C. came to be filed.

3. The learned counsel for the second respondent vehemently objected the petition stating that such an opportunity should not be given to the petitioner, since due opportunities were already been given to him and he did not utilise the same. Hence, no indulgence should be extended to the petitioner. Learned counsel further raised his objection stating that the orders of the trial court, rejecting the petitioner's application was properly passed.

4. In my view, the purpose for which, the recall of the complainant was made seems genuine and hence, due opportunity should be given to the petitioner so as to enable the Court to come to a logical conclusion.

5. In view of the above observation, the order dated 26.07.2017 made in C.M.P.No.1256 of 2017 in S.T.C.No.74 of 2015 on the file of the Fast Track Court, Magistrate Level at Thiruvallur.is set aside. Consequently, the petitioner/complainant is permitted to cross-examine himself as witness for the purpose of marking documents pertaining to his Income Tax Returns within a period of 10 days from the date of receipt of a copy of this Order. The trial court shall endeavour to complete the said cross-examination on the same day.

6. With the above observation, the Criminal Original Petition stands allowed. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate,
fast Track Court, Magisterial level,
Thiruvallur.

+1cc to Mr.C.Prabakaran, Advocate, S.R.No.15641
+1cc to Mr.M.P.Saravanan, Advocate, S.R.No.15735

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KGK(CO)
RRK(14/03/2018)