

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2018

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

CrI.O.P. No.11552 of 2018
and
CrI.MP.No.6029 of 2018

R.Sudharshan

...Petitioner

vs.

Maheswaran

...Respondent

Criminal Original Petition filed under Section 482, Cr.P.C. to call for the records relating to the order dated 23.02.2018 passed in C.M.P.No.4412 of 2018 in C.C.No.154 of 2015 on the file of the Fast Track Magistrate, Coonoor and set aside the same.

For petitioner : Mrs.Sangeetha Arunachalam

O R D E R

This Criminal Original Petition has been filed to call for the records relating to the order dated 23.02.2018 passed in C.M.P.No.4412 of 2018 in C.C.No.154 of 2015 on the file of the Fast Track Court, Coonoor and set aside the same.

2. The petitioner is facing a prosecution in CC.No.154 of 2015 before the Fast Track Court, Coonoor, under Section 138 of the Negotiable Instruments Act, 1881. On behalf of prosecution, the Deputy Manager, Central Bank of India, Coonoor was examined as PW2 on 11.07.2017. On that day, the petitioner did not cross examine PW2-Deputy Manager, Central Bank of India, Coonoor. PW2 was recalled on 21.07.2017 for cross-examination by the petitioner/accused. Thereafter, the accused/petitioner filed C.M.P.No.4412 of 2018 in C.C.No.154 of 2015 to once again recall the Deputy Manager, Central Bank of India, Coonoor, on the ground that the learned counsel has forgot to ask certain vital questions to the witness. The trial Court has dismissed C.M.P.No.4412 of 2018 in C.C.No.154 of 2015 on 23.03.2018, challenging which, the accused is before this Court.

3. The learned counsel for the accused submitted that further cross examination of PW2 is indeed essential inasmuch as several vital questions were left out by the learned counsel for the accused before the trial Court.

4. In the opinion of this Court, the Deputy Manager, Central Bank of India, Coonoor, had already deposed in chief on 11.07.2017 and was cross-examined on 21.07.2017, cannot be recalled in a cavalier manner just because the learned counsel has left out certain questions to be asked to the Deputy Manager. The Deputy Manager is not an eye-witness to the occurrence, he is only a person who speak out on the documents available with him. In Rajaram Prasad Yadav Vs. State of Bihar (2013) 3 Scale 316, the Supreme Court has given guidelines for entertaining a petition under Section 311 Cr.P.C. In the light of the above said judgment, this Court does not find any infirmity in the order passed by the Court below warranting interference. Hence, this petition is dismissed as being devoid of merits. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

mk
To

The Fast Track Magistrate,
Coonoor.

+ 1 cc to Mr. AR.M. Arunachalam, Advocate Sr.37674

Crl.O.P. No.11552 of 2018

BS(CO)
EU(03/07/2018)

सत्यमेव जयते

WEB COPY