

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.05.2018

CORAM:

THE HON'BLE MR.JUSTICE N. SATHISH KUMAR  
Crl.O.P. No.14650 of 2018

E. Marimuthu

.. Petitioner

Vs.

B.M. Finance

Rep.by its Proprietor Ashok Kumar

.. Respondent

Criminal Original Petition filed under section 482 of Criminal Procedure Code to set aside the order passed in C.M.P.No.3584 of 2018 in C.C.No.1781 of 2016 on the file of the IV Fast Track Court, George Town, Chennai and to recall the complainant as a witness by reopening the case.

For Petitioner : Mr.T.Muruganantham

For Respondent : Ms.M.Prabhavathi

Additional Public Prosecutor

O R D E R

This petition has been filed under Section 482 Cr.P.C, challenging the order passed by the learned Metropolitan Magistrate, Fast Track Court IV, George Town, Chennai, dismissing the petition filed under Section 311 Cr.P.C. to reopen the case for further cross examination of complainant/P.W.1.

2. It is the contention of the learned counsel for the petitioner that there is an hire purchase agreement only with V.M.Finance and not with B.M.Finance. The learned counsel further submitted that during the previous cross examination of P.W.1 some important questions are left to ask, due to ill-health of the petitioner. Hence one more opportunity to be given to the petitioner to establish his case.

3. On perusal of the impugned order of the learned trial court, the petitioner cannot seek permission as a matter of right for cross examining of P.W.1 by recalling him. Even though his conduct from 2016 till the closure of the evidence is not satisfied, in view of his admission that there is an agreement between the parties and some important points are left to ask, this court is of the view that one more opportunity will be given to the petitioner to establish his case as a last chance.

4. Accordingly, the order of learned trial judge, dismissing the application for recalling is set aside. The trial court shall recall P.W.1 and fix the date for cross examination on 20.06.2018. On that date the petitioner shall cross examine P.W.1. Failure to cross examine the witness on the same day, right of the revision petitioner shall be forfeited. In any case, this order is communicated or reached the trial Court on or after 20.06.2018, the trial court shall grant only one day for the petitioner/accused to cross examine P.W.1 and close the evidence and dispose of the case in C.C.No.1781 of 2016 as expeditiously.

5. With the above direction, the Criminal Original Petition is ordered.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

The Metropolitan Magistrate,  
Fast Track Court-IV  
George Town,  
Chennai-600001.

+1 cc to Mr.T.Muruganatham Advocate sr34435

CrI.O.P. No.14650 of 2018

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