

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2018

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CrI.OP.No.27942 of 2018
and CrI.MP.No.16190 of 2018

Mr.C.Anantharaj,
Son of late Chinnadurai
Proprietor of M/s.Dinakaran Home Appliances,
No.80, M.H.Road, Moolakadai,
Chennai 600060. ... Petitioner/ Petitioner /Accused

Vs.

M/s.Cabco Paradise Private Limited,
Being represented by its Director,
Mr.Deepak Tharad,
Office at No.8, Baker Street,
(opp.Law College) 1st Floor,
Chennai - 600 001. ...Respondent/ Respondent /Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C to set aside order dated 04.10.2018 in M.P.No.7959 of 2018 in C.C.No.525 of 2017 passed by the Metropolitan Magistrate Court, Fast Track IV, George Town, Chennai - 600 001 and allow the same.

For Petitioner : Mr.A.D.Janarthanan

For Respondent : Mr.Rajendra Prasad Tayal

ORDER

This Criminal Original Petition has been filed, challenging the order passed by the Court below, dismissing the petition filed by the petitioner under Section 311 of Cr.P.C. to recall P.W.1. for the purpose of cross-examination.

2. The learned counsel for the petitioner would submit that the petitioner is facing a trial before the Court below for an offence under Section 138 of the Negotiable Instruments Act. The petitioner had earlier filed a petition under Section 311 of Cr.P.C. to recall

P.W.1 and it was also allowed. However, subsequently there were some settlement talks and the petitioner also settled most of the amounts by keeping a balance of only Rs.10,000/- (Rupees Ten Thousand Only). In the mean time, the evidence of P.W.1 was closed. Thereafter, the settlement talks failed and therefore, the petitioner had again filed a petition for recalling P.W.1.

3. The Court below had dismissed the petition on the ground that already the petitioner was permitted to recall P.W.1 and it was also allowed by an order dated 09.01.2018. Since the petitioner did not cross-examine P.W.1., it was closed on 13.07.2018. The case was at the stage of arguments. At that stage, the present petition was filed only with a view to drag on the proceedings.

4. This Court carefully considered the submissions made on either side.

5. It is true that the earlier petition filed by the petitioner under Section 311 of Cr.P.C. was allowed and the petitioner was permitted to recall P.W.1 for cross-examination. However, there was a subsequent development wherein some settlement talks had happened between the parties. Therefore, it is not as if the petitioner had intentionally not cross-examined P.W.1.

5. This Court is of the considered view, that one last opportunity can be given to the petitioner to cross-examine P.W.1. The order passed by the Court below in C.M.P.No.7959 of 2018 dated 04.10.2018 is hereby set aside.

6. The learned counsel for the respondent would submit that P.W.1 will be present before the Trial Court on 20.12.2018 and on the same day, the learned counsel for the petitioner can cross examine P.W.1. The learned counsel also requested this Court to fix a time limit for the completion of the proceedings.

7. This Criminal Original Petition is disposed of, with a direction to the Court below to complete the Cross- examination of P.W.1 on 20.12.2018. Thereafter, if the petitioner has any defence evidence, the same shall be brought before the Court. In any event, the

Court below shall complete the proceedings within a period of one month from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS)

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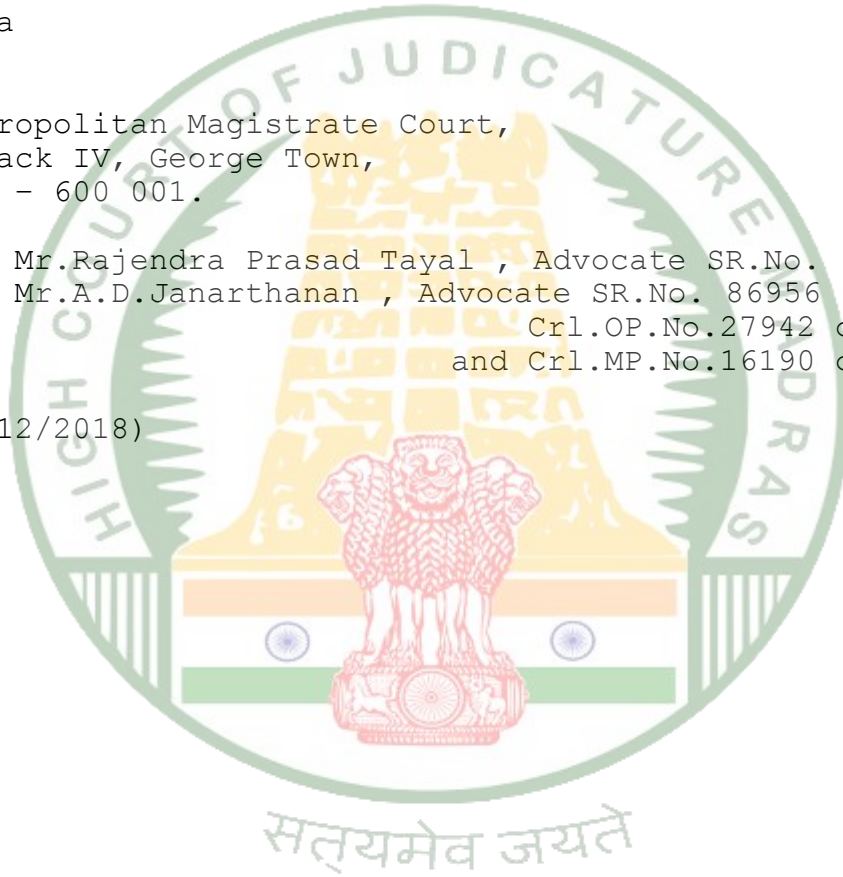
Sub Assistant Registrar

msrm/rka
To

The Metropolitan Magistrate Court,
Fast Track IV, George Town,
Chennai - 600 001.

+1cc to Mr.Rajendra Prasad Tayal , Advocate SR.No. 86934
+1cc to Mr.A.D.Janarthanan , Advocate SR.No. 86956
CrI.OP.No.27942 of 2018
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ASK (17/12/2018)



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