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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CrI.O.P.[MD]No.3943 of 2018

and

CrI.M.P(MD).No.1935 of 2018

A.Sarfudheen

: Petitioner/Accused

Vs.

Pitchaimuthu

: Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., praying to call for records pertaining to Cr.M.P.No.542 of 2018 in STC.No.230 of 2016 and set aside the order passed by the learned District Munsif and Judicial Magistrate, Veadachandur, Dindigul District dated 12.02.2018 and pass an order to recall the prosecutions witness Nos.1 to 3 for the purpose of cross examination.

For Petitioner : Mr.C.M.Arumugam

For Respondent : Mr.D.Balamurugapandi

O R D E R

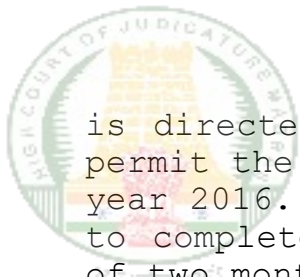
This petition has been filed aggrieved by the dismissal of the application filed under Section 311 of Cr.P.C by the petitioner to re-open the defence side evidence.

2.The learned counsel for the petitioner would submit that after the completion of the evidence on the side of the complainant, the case was posted for the evidence of the defence. However, since the defence side was not ready inspite of sufficient time given to the petitioner, the defence side evidence was closed and matter was posted for arguments on 02.02.2018. The Court below had dismissed the application filed under Section 311 Cr.P.C by the petitioner herein on the ground that the petitioner has not shown sufficient reasons for not examining the witness on the side of the defence and the Court below had also dismissed the petition on the ground that the petitioner is trying to drag on the proceedings.

3.In the considered view of this Court, the petitioner has to be given one more opportunity to examine the witness on his side, since the petitioner is facing trial for offence under Section 138 of the Negotiable Instrument Act.

<https://hcservices.ecourts.gov.in/hcservices/>

4.In the facts and circumstances of the case, the Court below



is directed to reopen the evidence on the side of the defence and permit the petitioner to let in evidence on his side. STC is of the year 2016. Therefore, there shall be a direction to the Court below to complete the proceedings in STC.No.230 of 2016, within a period of two months from the date of receipt of a copy of this order.

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5. In the result, the order passed by the learned District Munsif and Judicial Magistrate, Veadachandur, Dindigul District, in Cr.M.P.No.542 of 2018 is hereby set aside and the Criminal Original Petition is allowed with the above direction. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS I)

rmk

To

1. The District Munsif and
Judicial Magistrate, Veadachandur,
Dindigul District

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

1CC TO MR. D BALAMURUGA PANDI, ADVOCATE SR 87620

1CC TO MR. C.M. ARUMUGAM, ADVOCATE SR 88297

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