BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **27.09.2018**

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD) No.17603 of 2014

and

M.P.(MD) No.1 of 2014

N.Baskara Pandian .. Petitioner

Vs.

S.Manickam @ Manickavasagam .. Respondent

PRAYER: This Criminal Original Petitions have been filed under Section 482 of Criminal Procedure Code, to call for the records of the order dated 28.04.2014 passed in Cr.M.P.No.2026 of 2014 in S.T.C.No.934 of 2012 on the file of the Judicial Magistrate No.I, Fast Track Court at Magistrate level, Madurai and set aside the same.

For Petitioner : Mr.K.Sudalaiyandi
For Respondent : Mr.M.Subash Babu

ORDER

This criminal original petition has been filed to set aside the order passed in Cr.M.P.No.2026 of 2014 in S.T.C.No. 934 of 2012 on the file of the Judicial Magistrate No.I, Fast Track Court at Magistrate level, Madurai, dated 28.04.2014, thereby dismissing the petition filed by the petitioner under Section 311 Cr.P.C., to re-call P.W1 and to mark the documents related to income tax file for the assessment year 2010-2011.

2.The learned counsel for the petitioner would submit that the petitioner is the complainant and he was examined as P.W1. At his cross examination, he categorically admitted that in respect of different business. he had accounts and also he filed income tax returns. He categorically mentioned about the income and expenditures in the income tax returns. Therefore, he filed a petition to re-call himself and to mark the income tax returns.

3.The learned counsel for the respondent would submit that the petitioner was cross examined on 09.03.2010 and after a period of four years, the present petition has been filed only to fill up the lacuna. Therefore, the learned Judicial Magistrate No.I, Fast Track Court at Magistrate level, Madurai, has rightly dismissed the petition and there is no infirmity or illegality and prayed for dismissal of this petition.

4.Heard the learned counsel on either side.

5.It is seen from the cross examination of P.W1, he admitted that he had accounts for the entire business and also he filed income tax returns. The learned Judicial Magistrate No.I, Fast Track Court at Magistrate level, Madurai, dismissed the said petition on the ground that there is no material itself in the document with regard to the assessment year marked and also considering the delay in filing the petition.

6.It is seen from the income tax returns, that is of the assessment year 2010-2011. What ever the accounts submitted for the previous years that should be required in the present assessment year. Therefore, there is no difference in the year, which is sought to be marked by the petitioner herein. Further, no prejudice will be caused by the respondent / accused by marking the said document.

7.Therefore, this Court is inclined to set aside the order passed by the learned Judicial Magistrate No.I, Fast Track Court at Magistrate level, Madurai, dated 28.04.2014 in Cr.M.P.No.2026 of 2014 in S.T.C.No.934 of 2012. Accordingly, this criminal original petition is allowed. Considering the year of S.T.C., the learned Judicial Magistrate No.I, Fast Track Court at Magistrate level, Madurai, is directed to complete the trial proceedings within a period of three months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The Judicial Magistrate No.I,
   Fast Track Court at Magistrate level,
   Madurai,

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

+1cc to Mr.M.Subash Babu, Advocate Sr.No.88078
+1cc to Mr.K.Sudalaiyandi, Advocate Sr.No.87360

MM
VB/RP/SAR1/15.11.2018/2P/5C