

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2019

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.3318 of 2019
and Crl.M.P.Nos.2161 & 2162 of 2019

Thulja Traders,
Rep. by its Power Agent,
S.R.Guruprasad

...Petitioner

-Vs-

M/s.Venkatesh Trading Company,
Rep. by its Partner
Danmalchandak.

... Respondent

Prayer:

Criminal Original petition filed under Section 482 of the Code of Criminal Procedure, 1973 to set aside the order passed in Crl.M.P.No.10085 of 2018 in C.C.No.935 of 2014 dated 21.12.2018 on the file of the Metropolitan Magistrate, Fast Track Court - IV, George Town, Chennai - 1 by allowing the present Criminal Original Petition.

For Petitioner : Mr.K.Suthan

ORDER

This Criminal Original Petition has been filed challenging the order passed in Crl.M.P.No.10085 of 2018 in C.C.No.935 of 2014 dated 21.12.2018 on the file of the Metropolitan Magistrate, Fast Track Court - IV, George Town, Chennai, dismissing the application filed under Section 311 of Cr.P.C.

2. Heard the learned counsel for the petitioner as well as the learned counsel for the respondent and perused the materials available on record.

3. From the records, it is seen that the petitioner was already permitted to cross examine P.W.1 on many occasions and since the petitioner had not used the opportunities. P.W.1's cross was closed earlier. However, on a petition filed under Section 311 of Cr.P.C, the petitioner was cross examined on

08.05.2018 and 12.06.2018 elaborately. Thereafter, again the petitioner has filed the present petition to recall the same witness to be cross examined as a new counsel has been engaged by him. Now this case posted on 11.02.2019 for the defence side witness.

4. Considering the facts and circumstances of the case, viz., 58 cheques were presented and dishonored, this Court is of the considered view that one last opportunity can be given to the petitioner to recall P.W.1 for cross examination. Therefore, the order passed by the Court below in CrI.M.P.No.10085 of 2018, dated 21.12.2018 is hereby set-aside.

5. This Criminal Original Petition is allowed on condition that the petitioner shall cross examine P.W.1 on 11.02.2019 and complete the cross examination on that day itself and the petitioner shall pay a cost of Rs.5,000/- to P.W.1 at the time when he comes for giving evidence. On failure of the said condition, the learned Metropolitan Magistrate, Fast Track Court - IV, George Town, Chennai is directed to proceed further with the trial. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

lpp

To

The Metropolitan Magistrate,
Fast Track Court - IV, सत्यमेव जयते
George Town, Chennai

+lcc to Mr.K.Suthan, Advocate, S.R.No.10516

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PM(CO)
CS/08/02/2019