

3IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.4518 of 2019
and Crl.M.P.Nos.2703 & 2705 of 2019

P.Balasubramanian

... Petitioner/Accused

Vs.

S.Anbu

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the order passed in C.M.P.No.517 of 2019 in S.T.C.No.39 of 2018 dated 01.02.2019 on the file of the Judicial Magistrate No.II at Poonamalle (FAC) by allowing the present Criminal Original Petition.

For Petitioner : Mr.Ma.P.Tahangavel

For Respondent : Mr.C.P.R.Kamaraj

ORDER

This petition has been filed to set aside the order passed in C.M.P.No.517 of 2019 in S.T.C.No.39 of 2018 dated 01.02.2019 on the file of the Judicial Magistrate No.II at Poonamalle (FTC), thereby dismissing the application under Section 311 of Cr.P.C.

2. The petitioner is facing trial before the learned Judicial Magistrate No.II at Poonamalle (FTC) for an alleged offence under Section 138 of the Negotiable Instruments Act. The petitioner filed C.M.P.No.517 of 2019 in S.T.C.No.39 of 2018 under Section 311 Cr.P.C seeking to examine the independent witnesses viz., Murugesan and Dhandapani. But the Court below dismissed the said petition. Hence, the present petition.

3.Considering the facts and circumstances of this case, this Court is inclined to give one more opportunity to examine the material witnesses viz., Murugesan and Dhandapani. Accordingly, the order passed by the learned Judicial Magistrate No.II at Poonamalle (FTC) is hereby set aside and the petitioner is permitted to examine the witnesses viz., Murugesan and Dhandapani on payment of necessary charges. The trial Court is

directed to fix a date for cross-examination and issue summons to the said witnesses. It is made clear that if the petitioner fails to examine the above said witnesses on the day fixed by the trial Court, the trial Court is directed to proceed further with the trial on merits in accordance with law.

4. With the above directions, these Criminal Original Petitions are allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssr
To

1. The Judicial Magistrate No.II,
Poonamalle.
2. -Do- Thro The Chief Judicial Magistrate,
Thiruvallur.
3. The Public Prosecutor,
Hight Court of Madras.

+1cc to Mr.Ma.P.Thangavel, Advocate Sr.38539

Cr1.O.P.No.4518 of 2019
and Cr1.M.P.Nos.2703 & 2705 of 2019

gj[co]
srg 22/04/2019

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