

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.4501 of 2019
and
Crl.MP. No. 2695 of 2019

M.Jaganathan

... Petitioner

Vs.

R.Dhanraj

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order passed by the learned Judicial Magistrate No.I, Gobichettipalayam, Erode District in CMP. No. 10309 of 2018 in C.C. No. 220 of 2004 dated 04.02.2019.

For Petitioner : Mr. S. Suresh

For Respondent : Mr. K. Sudhakar

ORDER

This Criminal Original Petition has been filed to to set aside the order passed by the learned Judicial Magistrate No.I, Gobichettipalayam, Erode District in CMP. No. 10309 of 2018 in C.C. No. 220 of 2004 dated 04.02.2019.

2. Heard both sides and perused the documents available on record.

3. On perusal of records, it is seen that the petitioner is the accused in the proceedings initiated by the respondent under Section 138 N.I Act. After questioning under Section 313 Cr.PC, the petitioner has furnished list of 13 witnesses as defence witnesses. In which, he has examined only one person. Again the petitioner had filed a petition under Section 254(2) Cr.PC in CMP. No. 10309 of 2018 in C.C. No. 220 of 2004 to examine other 7 witnesses, in which he not pressed the witnesses 1,3,5,6 & 7 and wants examine the witnesses 2 & 4. The said petition was dismissed by the trial Court by its order dated 04.02.2019.

4. Aggrieved by the said order, the petitioner has preferred this petition to set aside the same.

5. Now the petitioner has submitted that he did not examine the witnesses on his side in the list furnished immediately after questioning under Section 313 Cr.PC. In spite of that the petitioner wants to examine LW4 alone, who is the Manager, ICICI Bank, Gobichettipalayam to prove his case. It is further submitted by the learned counsel for the petitioner that only through LW4 viz., Manager, ICICI Bank, Gobichettipalayam, defence can establish the fact that the alleged cheque was issued in the year 1999 and further submitted that he is the only authorised person, who could speak about the interpolation in the cheque.

6. Considering the facts and circumstances of the case, the order passed by the trial Court in CMP. No. 10309 of 2018 in C.C. No. 220 of 2004 dated 04.02.2019 is set aside insofar as LW4 alone. Consequently, the trial Court is directed to fix a date to examine LW4 viz., Manager, ICICI Bank, Gobichettipalayam by the petitioner.

7. It is made clear that, if the petitioner fails to examine LW4 on the date fixed by the trial Court, the trial Court may proceed with the trial in accordance with the law.

8. Considering the case in C.C.No. 220 of 2004 is pending from the year 2004 onwards, the trial Court is directed to complete the trial within a period of three months thereafter.

With the above observations and directions, the Criminal Original Petition stands allowed. Consequently, the connected Miscellaneous Petition is closed.
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Sd/-
Assistant Registrar (CS VII)

//True Copy//

Sub Assistant Registrar

To

The Judicial Magistrate No.I,
Gobichettipalayam, Erode District.

+1cc to Mr.S.Suresh, Advocate, SR.No.34154

CrI.O.P.No.4501 of 2019
and CrI.MP. Nos. 2695 of 2019

Kak (09/04/2019)