

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 27.06.2019

CORAM
THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.OP No.8467 of 2019
and
Crl.M.P.No.4511 of 2019

1.Kuttalingam

2.Lingam Gensets,
rep.by its proprietor,
L.Kuttalingam,
No.G-1, V.M. Flats,
Ramamoorthy Street,
P.N.Babhu Avenue,
Valasaravakkam,
Chennai-87. ... Petitioners

.Vs.

Peri Institute of Technology,
Rep.by its Manager M.K.Ravi,
No.1, Mannivammak,
Near West Tambaram,
Chennai-600 048. ... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 28.12.2018 passed by the learned Judicial Magistrate, Tambaram in Crl.M.P.No.6842 of 2018, pending on the file of the learned Judicial Magistrate, Tambaram.

For Petitioners: Mr.P.Palaninathan

For Respondent : Mr.S.Sivakumar

ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below dismissing the application filed by the petitioner u/s 311 of Cr.P.C., to recall PW-1 for cross examination.

2. It is seen from records that the petitioner had filed similar petitions twice during earlier occasions and the petition was also allowed on condition. This condition was not complied with by the petitioner. The Court below has therefore dismissed the present application which has been filed for the third time for the same relief.

3. This Court does not find any illegality or infirmity in the order passed by the Court below. However, in order to give one last opportunity to the petitioner to cross examine PW-1, this Court deems it fit to allow this criminal original petition by imposing certain conditions.

4. The petitioner is directed to pay a sum of Rs.1 lakh to the respondent within a period of two weeks from today. PW-1 shall be present before the Court below on 12.07.2019, and on the same day he shall be cross examined by the petitioner and the cross examination shall be completed on the same day. If for any reason the petitioner does not cross examine PW-1 on 12.07.2019, the petitioner shall forfeit his right to recall PW-1 at any future date. The Court below is directed to complete the proceedings in STC No.6869 of 2015, within a period of two months from the date of receipt of copy of this order.

5. If the petitioner fails to pay the cost imposed by this Court within the time stipulated by this Court, the order passed by the Court below in CMP No.6842 of 2018 dated 28.12.2018, shall stand revived and the Court below can proceed further to hear the arguments and dispose of the case. It is made clear that the cost paid by the petitioner is without prejudice to his rights and claims in the pending proceedings.

Criminal Original Petition is disposed of with the above directions. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

KP

To

1.Judicial Magistrate,
Judicial Magistrate Court,
Thambaram.

2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Rajendrakumar, Advocate, S.R.No.53576

+1cc to Mr.P.Palaninathan, Advocate, S.R.No.53360

Cr1.OP No.8467 of 2019

SVI (CO)

RRS (28/06/2019)