

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.7671 of 2019

M/s.A.K.Agencies,
Represented by Proprietor
Ameer Abbas.

...Petitioner

-Vs-

K.Ali Ahamed Sabari

... Respondent

Prayer: Criminal Original petition filed under section 311 of Cr.P.C to set aside the order passed by the Magistrate in Crl.M.P.No.9116 of 2018 in CC.No.3499 of 2014 pending on the file of Learned Judicial Magistrate - II Pollachi and allow the recall of PW-1 for cross examination.

For Petitioner : Mr.M.N.Balakrishnan

ORDER

This petition has been filed challenging the order passed by the Court below, dismissing the petition filed by the petitioner under section 311 of Cr.P.C. to recall and cross examine PW1.

2. It is seen from the records that the complaint is of the order 2014 and the complainant was examined in chief on 4.3.2016 and he was also cross examined by the petitioner. The cross examination was completed on 13.10.2017. Thereafter the petitioner filed the petition for recall of PW1 for cross examination and the same was allowed by the order dated 07.09.2018 by imposing a condition that the petitioner has to pay a cost of Rs.500 on or before 10.8.2018. Since this cost was not paid, the petition stood dismissed.

3. While so, the petitioner has again filed the application under section 311 of Cr.P.C to recall and cross examine PW1. This petition has been dismissed by the Court below.

4. The learned counsel for the petitioner submitted that one last opportunity can be given to the petitioner to recall PW1 for further cross examination and the petitioner was not able to pay the cost on an earlier occasion, only due to the fact that

he suffered an ailment.

5. This Court has carefully considered the submissions made by the learned counsel for the petitioner and also the material available on records.

6. This Court does not find any illegality or infirmity in the order passed by the Court below and the Court below has given sufficient reasons while dismissing the application filed by the petitioner under section 311 of Cr.P.C. The Court below was right in observing that the petition itself has been filed only to drag on the proceedings. This court does not find any ground to interfere with the order passed by the Court below.

7. In the result, this Criminal Original Petition is dismissed and the Court below is directed to complete the proceedings in C.C.No.3499 of 2014, within a period of two months from the date of receipt of copy of this order.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

drl/ksa2

To

1.The Judicial Magistrate No.II, Pollachi.

2. -do-Through'The Chief Judicial Magistrate, Coimbatore

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Cr1.O.P.No.7671 of 2019

KK (CO)
GMY (27/06/2019)

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