

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2019

CORAM

THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

Crl.O.P.Nos.18006 & 18009 of 2019 and
Crl.MP.No.9066 of 2019

M.Arasu Narayanasamy

Petitioner in both Crl.OPs

Vs

M.Sankaran

Respondent in both Crl.OPs

Prayer in Crl.O.P.No.18006 of 2019: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records and set aside the order dated 10.01.2019 passed in Crl.M.P.No.5087/2018 in CC No.160 of 2013 on the file of Judicial Magistrate, Arni and the Court may be directed to reschedule a fresh date for cross examination of PW 1.

Prayer in Crl.O.P.No.18009 of 2019: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records and set aside the order dated 15.03.2019 passed in Crl.M.P.No.737/2019 in CC No.160 of 2013 on the file of Judicial Magistrate, Arni and the Court may be directed to reschedule a fresh date for cross examination of PW 1.

For Petitioner in both Crl.OPs : Mr.B.Ravi

For Respondent in both Crl.OPs : Mr.B.S.Ramesh

O R D E R

These petitions have been filed challenging the orders passed by the Court below, closing the evidence of PW 1, on the ground that the petitioner did not cross examine PW 1, when he was present before the Court on 31.01.2019.

2. The petitioner is facing trial before the Court below, for an offence under Section 138 of Negotiable Instruments Act. The respondent as the complainant had examined himself as PW 1 and he was also cross examined by the petitioner. Subsequently, the applications filed by the petitioner under Section 311 of Cr.P.C to recall PW 1 for further cross examination, were allowed by the Court below by its order dated 10.01.2019. The Court below made it clear that the petitioner should cross

examine PW1 on the next date of hearing, without seeking any adjournments, failing which, the evidence of PW 1 shall be closed.

3. Pursuant to the orders passed by the Court below, the case was posted on 31.01.2019 and on that day, the respondent was also present. However, he was not cross examined and the petitioner was not present before the Court and the evidence of PW 1 was closed.

4. Aggrieved by the same, the present petitions have been filed before this Court.

5. When these cases came up for admission, this Court passed the following order on 09.07.2019.

"There shall be an order of stay of proceedings in CC No.160 of 2013, on the file of the Judicial Magistrate, Arni, subject to the condition that the petitioner deposits a sum of Rs.60,000/- on or before 30.07.2019 in CC No.160 of 2013, on the file of the Judicial Magistrate, Arni. If the petitioner fails to deposit the said amount, the stay shall stand automatically vacated without any further reference to this Court."

6. Today, a memo has been filed before this Court, wherein, it is seen that the petitioner has complied with the condition imposed by this Court and he has deposited a sum of Rs.60,000/- before the Court on 29.07.2019.

7. Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondent.

8. Taking into consideration of the facts, this Court deems it fit to give one last opportunity to the petitioner to recall and further cross examine PW1. It is reported that the case is posted for hearing on 08.08.2019 and on that day, the Court below shall fix a date for further cross examination of PW 1. The further cross examination shall be completed by the petitioner on the same day itself, when PW 1 appears before the Court, failing which, the petitioner shall forfeit his right to recall PW 1 in future.

9. Accordingly, these Criminal Original Petitions are allowed and the Court below is directed to complete the proceedings in CC No.160 of 2013, within a period of 3 months from the date of receipt of copy of this order. The Court below shall send a report after completion of the proceedings. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

vrn

To

1. The Chief Judicial Magistrate
Arni
2. The Judicial Magistrate
Arni
3. The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.B.S.Ramesh, Advocate, S.R.No.66002

CrI.O.P.Nos.18006 & 18009 of 2019 and
CrI.MP.No.9066 of 2019

GP(CO)
SSM(22/08/2019)

सत्यमेव जयते
WEB COPY