

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN
CRL.OP.No.1762 of 2017
and CRL.M.P.No.1254 of 2017

V.Saravanabhavan

... Petitioner

Vs.

S.Shanmugam

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order passed by the learned Judicial Magistrate Ambattur, Fast Track Court, Magistrate Level, dated 06.01.2017 in CMP.No.2312/2016 in STC.No.85/2016.

For Petitioner : No appearance

For Respondent : No appearance

O R D E R

The Criminal Original Petition has been filed to set aside the order dated 06.01.2017, passed by the learned Judicial Magistrate Ambattur, Fast Track Court, Magistrate Level in CMP.No.2312 of 2016 in STC.No.85 of 2016.

2. There is no representation on the side of the petitioner as well as the respondent.

3. The relevant portion of the order dated 06.01.2017, in CMP.No.2312 of 2016 in STC.No.85 of 2016, passed by the learned Judicial Magistrate Ambattur, Fast Track Court, Magistrate Level is extracted hereunder:

[5] The question is whether the portion U/s 311 is maintainable. In this case the evidence of the complainant is over and after the incriminating circumstances were put to the accused, DW1 was examined on the side of the accused and now the trial has come to an end and at the stage of put forth the arguments the petitioner/Accused filed the application under Section 311.

[6] Under the above application the

petitioner/Accused sought to exhibit the subsequent cheque books presented by the bankers. On careful perusal of the case, this court is of considerable view that the documents sought to be marked through Dw1 is not necessitated as there is no rebuttal presumption raised by the accused in respect of subsequent cheques in 313 Questioning. As elicited by the counsel of complainant, relating to the facts of the case, Dw1 is fully cross examined and this court is of considerable view that the purpose for which the petition filed under section 311 is not purposefully explained and in the view this Court relying on the decisions of Hon'ble High Court in Madhwaraj Shirwa Vs.Skyways Air Services Private Limited dated 29-1-2016 and P.R.Chandran Vs.Rajendra Paper Stores on 27 July 2007, which stated that it is not open for a party to reopen the case only to fill up the lacuna. The petitioner/Accused can very well elicit the answers from Dw1 regarding the subsequent cheques and this Court considered that is not at all necessary to recall Dw1 for the purpose of eliciting about subsequent cheque books as it is leading only to protract the proceedings and on the basis this petition is dismissed."

4.Considering the , this Court finds no infirmity or illegality in the order dated 06.01.2017, passed by the learned Judicial Magistrate Ambattur, Fast Track Court, Magistrate Level in CMP.No.2312 of 2016 in STC.No.85 of 2016. Therefore, this Court is not inclined to set aside the same.

5.With the above observation, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

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Sub Assistant Registrar

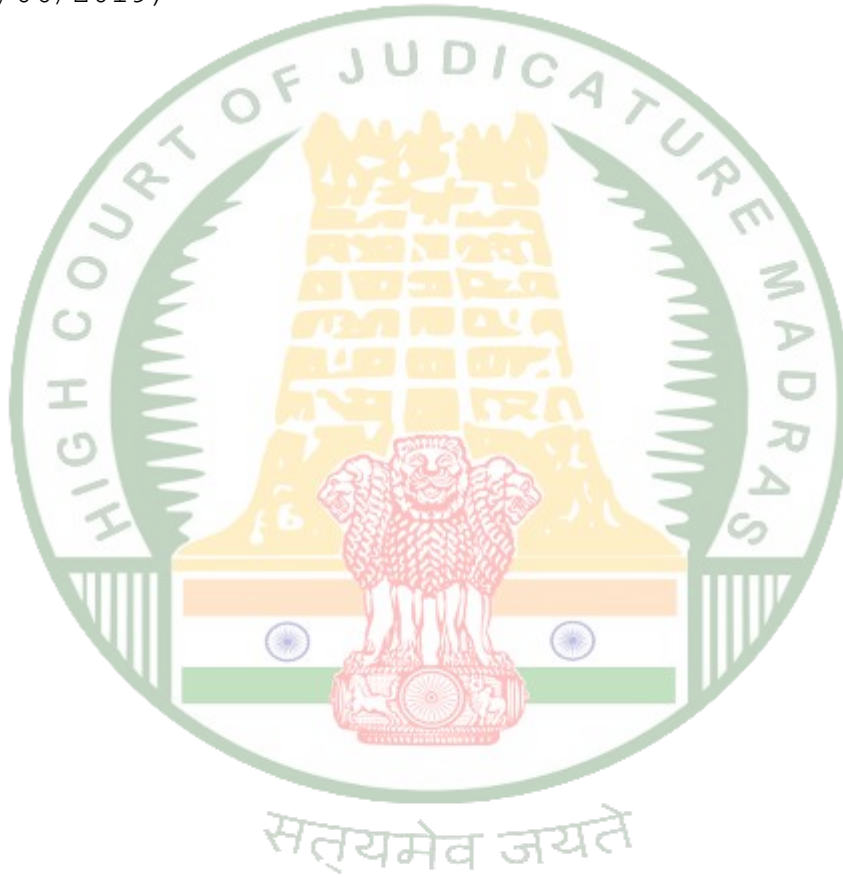
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To,

THE JUDICIAL MAGISTRATE,
FAST TRACK COURT,
MAGISTRATE LEVEL,
AMBATTUR

CRL.OP.No.1762 of 2017
and CRL.M.P.No.1254 of 2017

A.SK(21/06/2019)



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