

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.30101 of 2019

and

Crl.M.P.No.16282 of 2019

K.Jayasankar

..Petitioner/Accused

Vs.

M.Nachimuthu

..Respondent/complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the order dated 14.10.2019 made in Crl.R.P.No.28 of 2019 passed by the learned Principal Sessions Judge, Erode confirming the order dated 24.07.2019 made in C.M.P.No.4875 of 2019 in STC.No.536 of 2017 on the file of the learned Judicial Magistrate/Fast Track Court, No.2, Erode, by allowing this Criminal Original Petition.

For Petitioner : Mr.N.Manoharan

For Respondent : Mr.C.S.Saravanan

O R D E R

The present petition is filed to set aside the order dated 14.10.2019 made in Crl.R.P.No.28 of 2019 passed by the learned Principal Sessions Judge, Erode, confirming the order dated 24.07.2019 made in C.M.P.No.4875 of 2019 in STC.No.536 of 2017 on the file of the learned Judicial Magistrate/Fast Track Court, No.2, Erode.

2. The ground, on which the petitioner's application under Section 311 Cr.P.C came to be rejected, was that though the petitioner was extended sufficient opportunities to cross examine PW1, he has not availed the same.

3. The learned counsel for the petitioner would submit that during the course of the proceedings, settlement talks were initiated and owing to such talks, the petitioner was not in a position to cross examine, though the Trial Court had earlier allowed their application under Section 311 Cr.P.C. Hence, he would make an earnest request to given him an opportunity and also would submit that they are willing to complete the cross examination within a stipulated time.

4. The learned counsel for the respondent would submit that under the guise of settlement talks, the petitioner has been protracting the proceedings and since the complainant is a senior citizen, who is aged about 70 years, serious prejudice has been caused to him.

5. This is a case under Section 138 of the Negotiable Instruments Act and unless and until the evidences are properly set forth by way of cross examination, it would not only be helpful for the parties to substantiate their case, but also for the Court to arrive at a just conclusion. Since the petitioner had not cross examined PW1 at any point of time earlier, this Court is of the view that one final opportunity can be extended for such cross examination. By taking into account of the fact that the complainant is a senior citizen, such a cross examination can be directed to be completed, within a week's time.

6. In the light of the above observations, the impugned order dated 14.10.2019 made in Crl.R.P.No.28 of 2019 passed by the learned Principal Sessions Judge, Erode, confirming the order dated 24.07.2019 made in C.M.P.No.4875 of 2019 in STC.No.536 of 2017 on the file of the learned Judicial Magistrate/Fast Track Court, No.2, Erode, is set aside. Consequently, the learned Principal Sessions Judge, Erode shall grant an opportunity to the petitioner to cross examine PW1 and ensure that such cross examination is completed, atleast within a period of 1 week from the date of receipt of a copy of this order. It is made clear that the petitioner shall not be granted any further time for cross examination.

7. Since the complainant is said to be aged about 70 years, the Trial Court shall endeavour to complete the proceedings, as expeditiously as possible, in any event, within a period of 3 months from the date of receipt of a copy of this order.

8. The Criminal Original Petition stands allowed accordingly. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1. The Principal Sessions Judge,
Erode.

2.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.C.S.Saravanan Advocate sr93447

+1 cc to Mr.N.Manoharan Advocate sr93486

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