

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2019

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

CrI.O.P.No.29222 of 2019

and

CrI.M.P.No.15714 of 2019

S.Kumar

...Petitioner/Accused

Vs

Thiyaneshwaran

...Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.PC, praying to set aside the order passed in C.M.P.No.7042 of 2019 in S.T.C.No.636 of 2017 dated 16.10.2019 on the file of Judicial Magistrate Court, FTC No.II, Erode, and permit to recall cross examine P.W.1 for the purpose of further cross examination.

For Petitioner : Mr.C.S.Saravanan

O R D E R

The prayer sought for in the present petition is to set aside the order passed by the learned Judicial Magistrate, FTC No.II, Erode in C.M.P.No.7042 of 2019 in S.T.C.No.636 of 2017 dated 16.10.2019 and to permit to recall PW.1 for the purpose of further cross examination.

2. The ground, on which the petitioner's application under Section 311 Cr.P.C came to be rejected, is that though PW.1 was examined in chief on 10.09.2018 and there were ample opportunities given to the petitioner to cross examine, he had not chosen to avail those opportunities. Though this Court does not find such a reasoning as an infirmity, by taking into account the submission of the learned counsel for the petitioner that certain vital aspects has to be put forth in the cross examination to PW.1 and also the fact that such a cross examination would assist the Court in coming to a just and fair conclusion, this Court is inclined to take a lenient view by giving one more opportunity to the petitioner to cross examine PW.1.

3. In the light of the above observations, the order dated 16.10.2019 passed in C.M.P.No.7042 of 2019 on the file of the learned Judicial Magistrate, (Fast Track Court No.II), Erode, is set aside and consequently, the learned Magistrate shall permit the petitioner to cross examine PW.1, atleast within a period of one week from the date of receipt of a copy of this order. It is made clear that no further opportunity would be extended to the petitioner to cross examine PW.1.

4. Accordingly, the Criminal Original Petition stands disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Insp cell)

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Sub Assistant Registrar

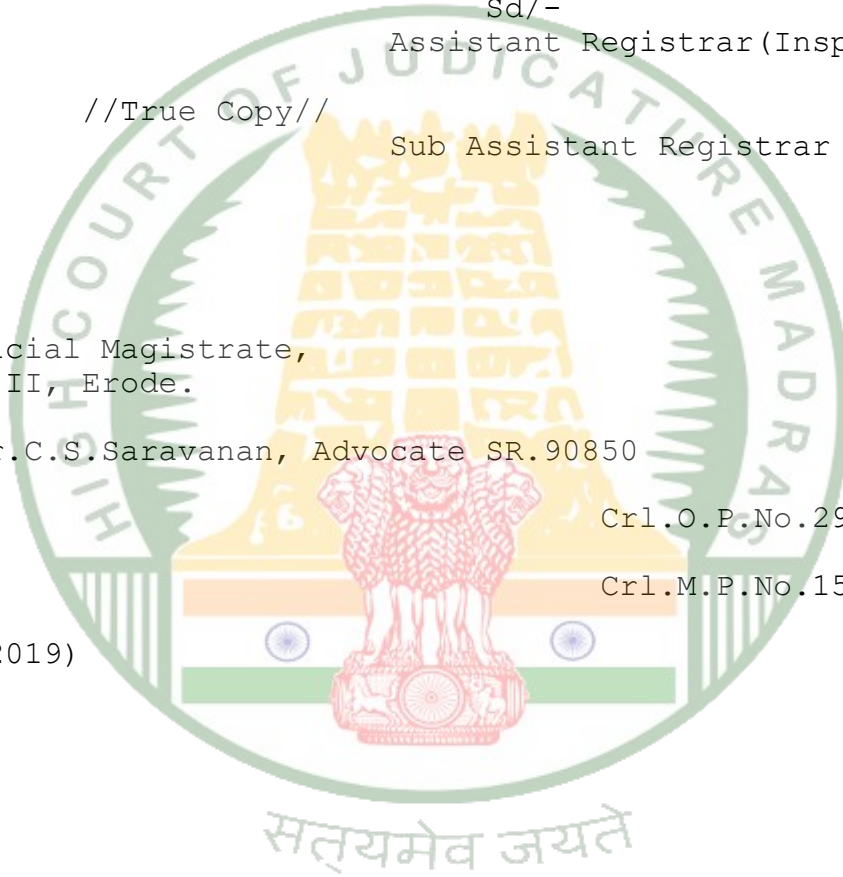
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To

1.The Judicial Magistrate,
FTC No.II, Erode.

+1cc to Mr.C.S.Saravanan, Advocate SR.90850

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RSK(CO)
CB(05/11/2019)



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