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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2019

CORAM:

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

CRL.O.P.Nos.31465 and 31506 of 2019

and

CRL.MP.No.17208 of 2019

P.Balakrishnan ... Petitioner in both the CRL.OPs

Vs.

M. Subramaniam ...Respondent in both the CRL.OPs

PRAYER in CRL.O.P.No.31465 of 2019: Criminal Original Petition filed under Section 482 of Cr.P.C, to set aside the order in CMP.No.874 of 2019 in C.C.No.212 of 2017 dated 03.10.2019 on the file of Fast Track (Judicial Magistrate Level-I) No.1 of Coimbatore, and permit the petitioner to call the Bank Manager, State Bank of Patiala, Papanaiickenpalayam Branch, Coimbatore as defence side witness.

PRAYER in CRL.O.P.No.31506 of 2019: Criminal Original Petition filed under Section 482 of Cr.P.C, to set aside the order in CMP.No.875 of 2019 in C.C.No.212 of 2017 dated 03.10.2019 on the file of Fast Track (Judicial Magistrate Level-I) No.1 of Coimbatore, and permit the petitioner to re-open the defence side evidence.

For Petitioner in both the CRL.OPs: M/s.Saravanan P.

C O M M O N O R D E R

These petitions have been filed seeking a direction to set aside the orders in CMP.Nos.874 and 875 of 2019 in C.C.No.212 of 2017 dated 03.10.2019 on the file of Fast Track (Judicial Magistrate Level-I) No.1 of Coimbatore.

2. A perusal of the records shows that the case before the trial court has already reached the stages of defence evidence. Hence, in order to avoid delay, notice to the respondent is dispensed with.

3. The learned Judicial Magistrate has dismissed the petitions on the ground that the petitioner has not produced the witness. Admittedly, the trial court has issued summons to the witness (Bank Manager). But the witness not appeared after receipt of the summons. In such a case, the trial court



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should have taken coercive steps to bring the said witness to the court by issuing a bailable warrant and instead of that, it has simply closed the defence side evidence. The procedure followed by the trial court is contrary to the law. Hence, this court is inclined to allow this petition.

4. The trial court is directed to take a coercive steps by issuing a bailable warrant to the witness and examine the same and thereafter dispose of the case in accordance with law.

5. With the aforesaid observations, these petitions are allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gv
To

The Fast Track (Judicial Magistrate Level-I)
No.1, Coimbatore,

+1cc to M/s.Saravanan P., Advocate SR.101224

CRL.O.P.Nos.31465 and 31506 of 2019
and
CRL.MP.No.17208 of 2019

AD(CO)
CB(06/12/2019)