



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.04.2019
CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

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Crl.O.P.No.5507 of 2019
and
Crl.M.P.No.3463 of 2019

A.Raja

.. Petitioner/Petitioner/Accused

Vs

Ajmeer Ali

.. Respondent/Respondent/Complainant

Prayer:Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the order dated 03.01.2019 passed in Cr.M.P.No.5863 of 2018 in C.C.No.360 of 2017 on the file of the Judicial Magistrate, No.I, Trichirappalli.

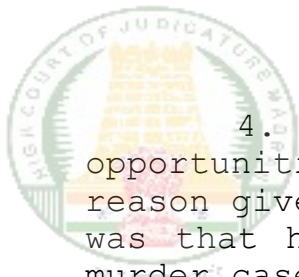
For Petitioner : Mr.V.Illanchezian

O R D E R

This petition has been filed to direct the respondents for not to set aside the order dated 03.01.2019 passed in Cr.M.P.No.5863 of 2018 in C.C.No.360 of 2017 on the file of the Judicial Magistrate, No.I, Trichirappalli.

2.The petitioner is an accused in C.C.No.360 of 2017 and facing trial for the offence under Sections 138 & and 142 of Negotiable Instruments Act. The case was instituted in the year 2017. The prosecution evidences were closed in the year 2018. Particularly, P.W.1 was examined on 23.07.2018. However, till date no cross examination was conducted.

3. For the purpose of cross examination, earlier the petitioner filed a petition in C.C.No.360 of 2017 dated 27.06.2018 to recall and cross examine P.W.1. Already the Court below had given opportunities to the petitioner on 01.08.2018, 07.08.2018, 13.08.2018, 05.09.2018, 25.09.2018 and 22.10.2018 respectively, for cross examining P.W.1. Finally, the Court below given an opportunity to the petitioner on 24.10.2018 on condition that the petitioner should pay a cost of Rs.2,000/- to P.W.1. But the petitioner neither paid that amount nor cross examined P.W.1. Hence, the re-call petition filed by the petitioner was dismissed by an order dated 03.01.2019 by the Court below.



4. The petitioner did not properly avail the said opportunities and he did not cross examine the witnesses. The only reason given by the petitioner for not cross-examining the witnesses was that his counsel was engaged at District Court for contesting murder case trial.

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5. This Court does not find any illegality or infirmity in the order passed by the Court below. However, in order to afford one more opportunity to the petitioner, this Court deems it fit to permit the petitioner to cross examine P.W.1. The order of the Court below in Crl.M.P.No.5863 of 2019 is hereby set aside and the petitioner is permitted to recall and cross examine P.W.1. No prejudice to the respondent for allowing him for cross examination.

6. The trial Court is directed to fix a hearing date for cross examination. On the same day, the petitioner should be cross examine the witnesses, without any further adjournment.

7. The petitioner shall pay the cost of Rs.5,000/- (Rupees Five Thousand only) to P.W.1, when he come for giving evidence.

8. This Criminal Original Petition stands allowed with the above direction. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar(CS)

dss

To

1. The Judicial Magistrate, No.I,
Trichirappalli.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.V.ILLANCHEZIAN, Advocate(SR-60847[F] dated 12/04/2019)

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