



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.09.2019
CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

WEB COPY

CRL.O.P. (MD) .Nos.1453 and 1454 of 2018
and
CRL.M.P (MD)No.627 of 2018

R.Jeyakumar ... Petitioner/Accused
(in both petitions)

Vs.

C.Gopalakrishnan ... Respondent/Complainant
(in both petitions)

PRAYER in Cr1.OP(MD)No.1453 of 2018 : Criminal Original Petition is filed under Section 482 of Cr.P.C, to set aside the order passed by the learned Judicial Magistrate No.VI, Tiruchirappalli in Cr1.M.P.No.3994 of 2017 in STC.No.758 of 2013, dated 26.10.2017 and by allowing the criminal original petition.

PRAYER in Cr1.OP(MD)No.1454 of 2018 : Criminal Original Petition is filed under Section 482 of Cr.P.C, to set aside the order passed by the learned Judicial Magistrate No.VI, Tiruchirappalli in Cr1.M.P.No.3982 of 2017 in STC.No.758 of 2013, dated 26.10.2017 and by allowing the criminal original petition.

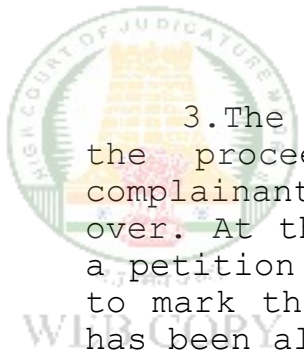
(in both petitions)
For Petitioner : Mr.R.S.Sivaram

(in both petitions)
For Respondent : Mr.R.Sundar

COMMON ORDER

These criminal original petitions have been filed challenging the order passed in Cr1.M.P.Nos.3994 and 3982 of 2017, respectively, in STC.No.758 of 2013, dated 26.10.2017, thereby allowing these criminal original petitions.

2.The petition filed by the respondent/complainant under Section 311 Cr.P.C to re-call and re-open to examine P.W.1 for marking the deposition of the respondent recorded in another case.



3.The learned counsel for the petitioner/accused submitted that the proceeding is of the year 2013, the respondent/defacto complainant examined P.W.1 and 2 and thereafter, arguments was also over. At the stage of pronouncing of judgment, the respondent filed a petition under Section 311 of Cr.P.C to re-call the witnesses and to mark the deposition recorded in another case, the said petition has been allowed by the trial Court.

4.The learned counsel for the respondent/complainant submitted that the case is of the year 2013 and at the time of arguments, he found that the deposition of the respondent recorded in another case in which, he is an accused and the petitioner is the complainant is very much required in this case to decide the issue. Therefore, the trial Court has rightly allowed the petition and permitted him to re-call himself and also to mark the deposition recorded in other case. Therefore, he sought for dismissal of the petition.

5.Heard the learned counsel for the petitioner and the learned counsel for the respondent.

6.The present petition has been filed challenging the order passed by the learned Magistrate by allowing the re-call petition and mark his deposition recorded in other case.

7.It is seen that the respondent is an accused in another case, in which, the petitioner is the defacto complainant. The case of the year is 2013 and at the stage of pronouncing judgment, the present petition is filed under Section 311 of Cr.P.C by the respondent to re-call himself and also to mark his deposition.

8.The deposition of any witnesses is a Court record, it can be relied upon during the arguments on either side. Therefore, the respondent need not to be re-called and to mark his deposition. Therefore, the trial Court ought not to have been allowed the petitioner to re-call the respondent to mark his deposition recorded in another case.

9.Accordingly, these criminal original petitions are allowed and the order passed by the learned Judicial Magistrate No.VI, Tiruchirappalli in Crl.M.P.Nos.3994 and 3982 of 2017 in STC.No.758 of 2013, dated 26.10.2017, are hereby set aside. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar



To

The Judicial Magistrate No.VI,
Tiruchirappalli.

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+1 CC to M/s.R.SIVARAM, Advocate (SR-87157[F] dated 17/09/2019)

CRL.O.P. (MD) .Nos.1453 and 1454 of 2018
and

CRL.M.P (MD) No.627 of 2018
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JM/11.10.2019/3P/3C