

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.27450 of 2015

Malarvizhi

... Petitioner/Petitioner
/Accused

Vs.

N.Srinivasan

... Respondent/Respondent
/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to set-aside the order passed by the learned Judicial Magistrate, Arani in CrI.M.P.No.2120 of 2015 in C.C.No.209 of 2014 by an order dated 07.05.2015 and direct to recall the witness PW1.

For Petitioner : Mr.K.Srinivasan

ORDER

This Criminal Original Petition has been filed to set aside the order dated 07.05.2015 in CrI.M.P.No.2120 of 2015 in C.C.No.209 of 2014 passed by the learned Judicial Magistrate, Arani.

2.Heard the submissions made by the learned counsel for the petitioner.

3.Despite serving notice to the respondent and his name printed in the cause list, no representation for the respondent.

4.The respondent examined himself as PW1. The chief examination of PW1 was on 03.12.2014. Thereafter, he was not cross examined by the petitioner for considerable time, despite giving sufficient opportunities. The evidence on the side of the prosecution was closed and the case was posted for recording of evidence on the side of the accused, if any. At that time, the petitioner has filed a petition under Section 311 Cr.P.C in CrI.M.P.No.2120 of 2015 in C.C.No.209 of 2014 before the learned Judicial Magistrate, Arani, to recall PW1. The learned Judicial Magistrate, Arani by order dated 07.05.2015, allowed the petitioner to recall PW1 by imposing a reasonable cost of

Rs.500/-. Aggrieved over the same, the present petition is filed by the petitioner.

5.It is seen that PW1 was examined in chief on 03.11.2014 and thereafter, four opportunities were given to the petitioner for cross examination of PW1. Despite the same, the petitioner failed to cross examine PW1. Hence, the trial Court closed the recording of evidence on the side of the of prosecution and posted the case for recording of evidence on the side of the petitioner/accused. At that time, a petition under Section 311 Cr.P.C has been filed by the petitioner. The trial Court considering the dilatory tactics adopted by the petitioner and delaying the progress of the case, had imposed a condition, directing the petitioner to pay a sum of Rs.500/- as cost. This Court finds the condition imposed by the trial Court is reasonable one.

6.The petitioner, now, fairly conceded that he is willing to deposit a sum of Rs.2,000/-, considering the five years in escalation of cost. The trial Court is directed to fix a date for examination of PW1 within 15 days from the date of lifting of lock down and regular functioning of Court below. On such date, the petitioner is to pay a sum of Rs.2,000/- as batta charges for PW1. After examination of PW1, the trial Court is to expeditiously complete the trial, within a period of three months.

7.With the above directions, this Criminal Original Petition is disposed of.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Judicial Magistrate,
Arani.

+1cc to Mr.K.Srinivasan, Advocate in SR.25711

Cr1.O.P.No.27450 of 2015

PVS (CO)
RV(15/7/2020)