

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.4411 of 2020
and Crl.M.P.No.2537 of 2020

C.D.Suganya
W/o K.Naveenkumar
Door No.16/22, Baby Illam
Periyamman Nagar
T.V.S.Nagar
Coimbatore - 641 025.

... Petitioner/Accused

Vs.

Rajkumar
S/o M.B.Jayakumar
Door No.8, Brindhavan Layout
Coimbatore - 641 001.

...Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code, to call for the records relating to the order dated 04.02.2020 passed in C.M.P.No.977 of 2020 in C.C.No.815 of 2018, now pending on the file of the Judicial Magistrate, Fast Track No.II, Coimbatore, and to set aside the same.

For Petitioner : Mr.P.Raja

For Respondent : No Appearance

ORDER

The Criminal Original Petition has been filed, to call for the records relating to the order dated 04.02.2020 passed in C.M.P.No.977 of 2020 in C.C.No.815 of 2018, now pending on the file of the Judicial Magistrate, Fast Track No.II, Coimbatore, and to set aside the same.

2. the learned counsel for the petitioner. Though notice was served on the respondent, none appeared on behalf of him.

3.It is seen that the petitioner is an accused in the complaint lodged by the respondent for the offence punishable under Section 138 of the NI Act. On the date of chief examination he filed the petitions in C.M.P.Nos.11151 and 11152 of 2019 to cross examine the P.W.1. Both the petitions were allowed by the trial Court on cost of Rs.1000/- by order dated

05.11.2019. Further the petitioner also complied with the condition and when the matter was posted for cross examination, the petitioner could not be able to present before the trial Court, since she had undergone medical treatment for eye sight problem and thereby she failed to instruct her counsel also. Therefore, she again filed a petition under Section 311 Cr.P.C., for cross examination of P.W.1. Thereby the learned Judicial Magistrate, FTC No.2, Coimbatore, dismissed the petition with the reason that the petitioner was already permitted to cross examine the P.W.1 and now, to protract the case the present petition has been filed.

4.Considering the above facts and circumstances, the petitioner may be given one more opportunity to cross examine the P.W.1. Therefore the order passed by the learned Judicial Magistrate, FTC No.2, Coimbatore, in C.M.P.No.977 of 2020 dated 04.02.2020, is set aside. The trial Court is directed to allow the petitioner to cross examine the P.W.1 on payment of necessary charges and if the petitioner failed to cross examine the P.W.1 on the date to be fixed by the trial Court, the trial Court is directed to proceed the trial in accordance with law.

5.With the above direction, the Criminal Original Petition is allowed. Consequently connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Judicial Magistrate, Fast Track No.II, Coimbatore.

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SR(CO)
SP(30/09/2020)

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