

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.4556 of 2020
and
Crl.M.P.No.2608 of 2020

N. Suresh ... Petitioner/Accused

Vs.

S. Balamurugan Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the order dated 20.12.2019 made in Crl.M.P.No.3777 of 2019 in C.C.No.16 of 2017 on the file of the Judicial Magistrate No.1, Sankari is set aside.

For Petitioner : No Appearance

For Respondent : No Appearance

O R D E R

This petition has been filed challenging the order dated 20.12.2019 in Crl.M.P.No.1777 of 2019 in C.C.No.16 of 2017 on the file of the learned Judicial Magistrate No.1, Sankari, thereby dismissing the petition filed by the petitioner under Section 311 of Cr.P.C to recall P.W.1 for cross examination.

2. It is seen that the petitioner is an accused in C.C.No.16 of 2017 lodged by the respondent for the offence punishable under Section 138 of Negotiable Instruments Act. The complainant was examined as P.W.1 and posted the matter for cross examination, even after several opportunities were given to the petitioner, he did not cross examined P.W.1. Thereafter, the petitioner filed petition under Section 311 of Cr.P.C in Crl.M.P.No.3777 of 2019 for cross examination of P.W.1 and the same was allowed by the trial Court by an order dated 12.12.2019, on condition that the petitioner shall pay a sum of Rs.1,000/- to the respondent/complainant on or before 19.12.2019. Now, the petitioner is ready and willing to pay the cost to the respondent/complainant.

3. Considering the above facts and circumstance of the case, this Court feels that the petitioner may be given one more opportunity to put fourth his defence. Accordingly, the order dated 20.12.2019, passed by the learned Judicial Magistrate No.1, Sankari in Crl.M.P.No.3777 of 2019 in C.C.No.16 of 2017, is hereby set aside and the petitioner is permitted to cross examine P.W.1, on payment of Rs.2,000/- as cost to the respondent/complainant on or before 02.09.2020. The trial Court is directed to fix a date for cross examination of P.W.1. On that date, if the petitioner fails to cross-examine P.W.1, the trial Court is directed to proceed with trial in accordance with law.

4. In view of the above direction, this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Judicial Magistrate No.1, Sankari

Crl.O.P.No.4556 of 2020

RJI (CO)
RV (02/09/2020)

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