

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2020

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.21857 of 2018

and Crl.M.P.No.11987 of 2018

Harichandran
Sole Proprietor,
M/s.Sri Harichandra Agencies,
No.806, Thiruvottiyur High Road,
Soundrapandian Nagar,
Thiruvottiyur, Chennai 600 019. ... Petitioner/Accused

Vs.

M/s.The Catholic Syrian Bank Ltd.,
Rajaji Salai Branch,
No.3, Second Line Beach Road,
Chennai 600 001.
Rep. by the Chief Manager. ... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., praying to call for the records in Crl.M.P.No.1274 of 2018 dated 17.07.2018 in C.C.No.222 of 2016 and revise the order passed in Crl.M.P.No.1274 of 2018 and set aside the same and consequently permit the petitioner / accused to recall the witness prosecution PW1 for cross examination in view of defence.

For Petitioner : Mr.R.Jayapratap

for M/s.Ilayaraja Kandasamy

For Respondent : No Appearance

O R D E R

The petitioner has filed this petition to set aside the order passed in Crl.M.P.No.1274 of 2018 dated 17.07.2018 in C.C.No.222 of 2016 on the file of the Metropolitan Magistrate, FTC IV, Chennai and consequently permit him to recall PW1 for cross-examination.

2. It is seen that the petitioner is an accused on the complaint lodged by the respondent for the offence punishable under Section 138 of Negotiable Instruments Act in C.C.No.222 of 2016. PW1 was examined in chief on 08.12.2016 and thereafter, the petitioner was given opportunity to cross-examine the de-facto complaint, PW1 on various occasions. Finally, the petitioner partly cross-examined PW1 on 28.03.2017. Thereafter, at the request of the petitioner for cross-examination of PW1, the Trial Court repeatedly adjourned the matter on several occasions and finally adjourned to 02.06.2017 on payment of some cost. On 02.06.2017, the petitioner did not appear before the Trial Court, hence Non-bailable Warrant was issued against the petitioner. The petitioner was secured and released on bail. Even then, for continuation of cross-examination, the case was adjourned on several occasions, but the petitioner failed to cross-examine PW1, as such, the evidence of PW1 was closed and questioning under 313 Cr.P.C. was also over. Thereafter, the case was posted for defence side witness on various dates. At that juncture, the petitioner filed petition under Section 311 of Cr.P.C. to cross-examine PW1 and the said petition was allowed on 22.11.2017 and the petitioner was again permitted to cross-examine PW1, but he did not cross-examine PW1. As such, after granting so many opportunities to the petitioner, again closed the prosecution witness and posted for defence side witness. Once again, the present petition has been filed to cross examine PW1 by the petitioner herein. It shows that the present petition has been filed only to drag on the proceedings and nothing else. Therefore, the Magistrate has rightly dismissed the petition filed by the petitioner under Section 311 Cr.P.C. This Court does not find any infirmity or illegality in the order passed by the learned Judicial Magistrate.

3. Accordingly, this petition is dismissed. However, the Trial Court is directed to complete the trial within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

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-s/d-
Assistant Registrar
True Copy
Sub-Assistant Registrar

pvs

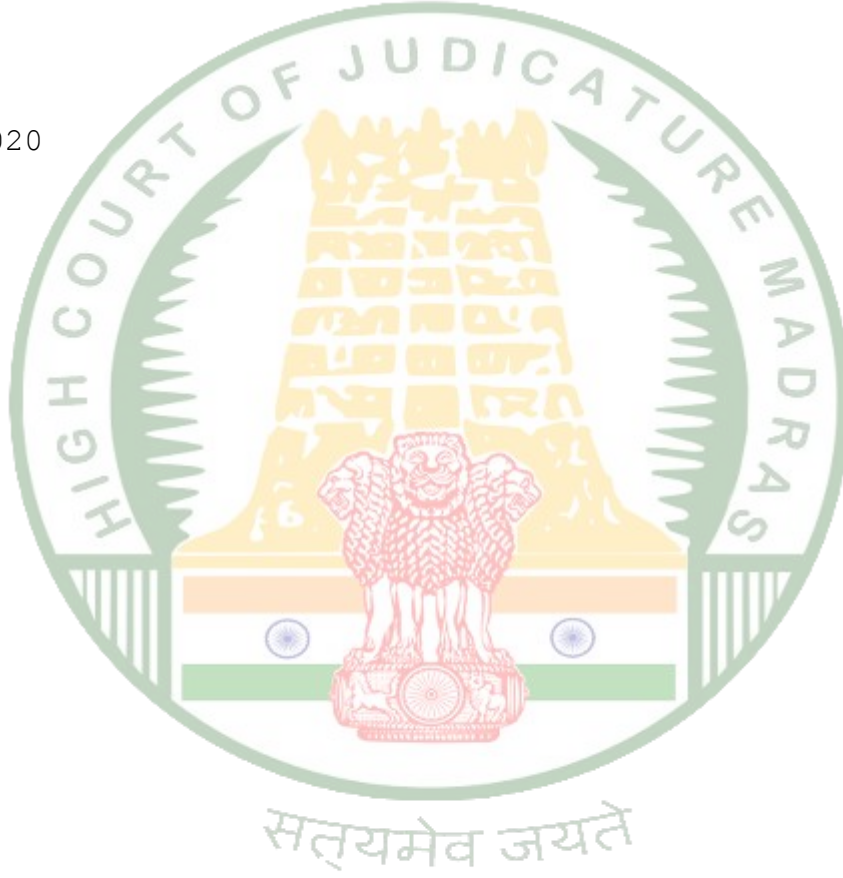
To

1. The Metropolitan Magistrate,
FTC IV, Chennai

2. The Public Prosecutor,
High Court of Madras.

Cr1.O.P.No.21857 of 2018

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