

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2021

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CRL.O.P.No.3954 & 3957 of 2021andCrI.M.P.No.2378 & 2380 of 2021

K.Sundarajan .. Petitioner in Crl OP No.3954 of 2021
S.Brindha .. Petitioner in Crl OP No.3957 of 2021
Vs.

P.Gunasekaran .. Respondents in both Crl. OPs

COMMON PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 21.01.2021 made in C.M.P.No.44 of 2021 in S.T.C.No.515 of 2017 [in Crl OP No.3954 of 2021] C.M.P.No.41 of 2021 in S.T.C.No.516 of 2017 [in Crl OP No.3957 of 2021] on the file of the Judicial magistrate (Fast Track Court II) Erode.

For Petitioner : Mr.Deepan Uday
in both Crl OPs

COMMON ORDER

These Criminal petitions has been filed challenging the order passed by the Court below dismissing the application filed by the petitioner under Section 311 of Cr.PC to recall PW1 for cross examination.

2. The respondent has filed a complaint against the petitioner for an offence under Section 138 of the NI Act. It is seen from records that the respondent has examined himself as PW1 and he was also cross-examined by the petitioners as early as on 30.01.2019. The matter was thereafter posted for judgment. At that point of time, the petitioners filed an application to examine defence witnesses and the same was also allowed by an order dated 12.03.2019. It seems that the defence witnesses did not turn up inspite of repeated adjournments and ultimately, the defence side evidence was closed on 20.09.2019. The petitioners thereafter again filed an application to examine further defence witnesses and this application came to be dismissed by an order dated 21.02.2020. This order also become final. When the matter was at the stage of final hearing, the petitioners again filed an application

to recall PW1 for further cross-examination. The Court below has dismissed these applications. Aggrieved by the same, the present petitions have been filed before this Court.

3. Heard the learned counsel for the petitioner.

4. In the considered view of this Court, the order passed by the Court below does not suffer from any illegality or infirmity. The Court below has given cogent reasons as to why the application filed by the petitioners cannot be sustained. This Court does not find any ground to interfere with the order passed by the court below. In spite of sufficient opportunities, the petitioners failed to avail of the same. Infact, the petitioners had already cross-examined PW1 in full as early as during February 2019.

5. In view of the above, these criminal original petitions are dismissed and the Court below is directed to complete the proceeding within a period of two months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petitions are closed.

01.03.2021

Index : Yes/No
Internet: Yes/No
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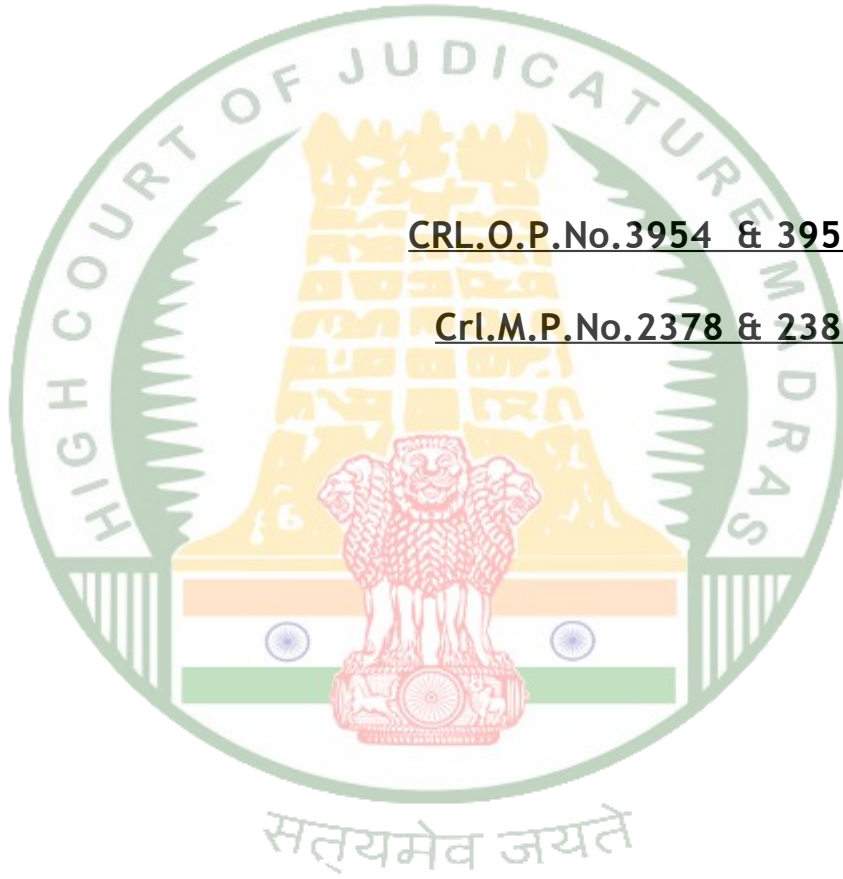
To

1. The Judicial magistrate (Fast Track Court II) Erode
2. The Public Prosecutor, High court, Madras



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and
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