

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 24.03.2021
CORAM

THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

Crl.O.P.Nos.4544 & 4638 of 2021 &
Crl.M.P.No.2911 of 2021

V.Venkidupathi,
S/o.V.R.Velusamy

.. Petitioner in both OPs

Vs.

M.Varatharajan

.. Respondent in both OPs

Prayer in Crl.O.P.No.4544 of 2021: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set aside the order dated 10.02.2021 made in Crl.M.P.No.1436 of 2020 in C.C.No.19 of 2015 on the file of the learned Judicial Magistrate I, Udumalpet.

Prayer in Crl.O.P.No.4638 of 2021: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set aside the order dated 10.02.2021 made in Crl.M.P.No.1437 of 2020 in C.C.No.19 of 2015 on the file of the learned Judicial Magistrate I, Udumalpet.

For Petitioner : Mr.E.Sathiyaraj
(in both OPs)

For Respondent : Mr.P.M.Duraisamy
(in both Ops)

ORDER

These petitions have been filed challenging the orders passed by the court below dismissing the applications filed by the petitioner to re-open and re-call PW1 for further cross-examination.

2. When the matter came up for hearing on 09.03.2021, this Court passed the following order:-

"These Petitions have been filed to reopen and to recall P.W.1 for further cross-examination. These applications came to be filed when the case was at the stage of final arguments. This Court does not find any illegality or infirmity in the order passed by the Court below. The learned counsel appearing for the petitioner submitted that the entire amount has been

paid to the respondent and this has to be established by way of marking certain Sale Deeds through P.W.1. It was further submitted that the mistake committed by the counsel should not be put against the petitioner.

2. Taking into consideration the facts and circumstances of the case, the petitioner is directed to deposit a sum of Rs.1,50,000/- (Rs. One lakh fifty thousand only) before the Court below on or before 23.03.2021.

3. Notice to the respondent returnable by 24.03.2021. Private notice is also permitted. The petitioner is also permitted to serve notice on the counsel appearing on behalf of the respondent before the Court below.

4. Post this case under the caption 'for orders' on 24.03.2021. In the meantime, there shall be stay of proceedings in C.C.No.19 of 2015 till 24.03.2021."

3. When the matter was taken up for hearing today, the learned counsel for the petitioner submitted that the petitioner has complied with the condition imposed by this Court and a sum of Rs.1,50,000/- has been deposited before the Court below. The learned counsel further submitted that one last chance may be given to the petitioner to recall PW1 for further cross-examination.

4. Per contra Mr.P.M.Doraisamy, learned counsel appearing on behalf of the respondent submitted that the proceedings were initiated in the year 2015 and the petitioner has successfully dragged on the case and the order passed by the Court below reveals the fact that repeated adjournments were given in this case and only after the counsel for the petitioner represented that there is no further cross-examination, the evidence was closed on 28.11.2019. The learned counsel therefore submitted that there is absolutely no ground to interfere with the order passed by the Court below. The learned counsel concluded his arguments by submitting that if in the event this Court is inclined to give a chance to the petitioner, some time limit can be fixed for completion of the proceedings.

5. This Court has carefully considered the submissions made on either side and also the materials available on record.

6. This Court did not find any illegality or infirmity in the order passed by the Court below. However, considering the

stand taken by the petitioner, this Court imposed a condition to the petitioner to deposit a sum of Rs.1,50,000/- before the Court below. This condition has been complied with. Taking into consideration the facts and circumstances of the case, this Court is inclined to give one last chance to the petitioner to re-open and re-call PW1 for further cross-examination.

7. In view of the above, the order passed by the Court below in CrI.M.P.Nos.1436 and 1437 of 2020 dated 10.02.2021, is hereby set aside. It is brought to the notice of this that the case is posted on 07.04.2021. On that day, the respondent shall be present before the Court below and the petitioner will be permitted further cross-examination of PW1. The cross-examination must be completed on the same day. If for any reasons, the petitioner fails to cross-examine PW1 on 07.04.2021, the petitioner will forfeit his right to recall PW1 in future.

8. Both the Criminal Original Petitions are disposed of with a direction to the Court below to complete the proceedings in C.C.No.19 of 2015 on or before 15.06.2021.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1.The Judicial Magistrate I,
Udumalpet.

2. -Do-Thro' The Chief Judicial Magistrate,
Tiruppur.

Copy to : The Section Officer, Criminal Section,
High Court of Madras, Chennai.

+2cc to Mr.E.Sathiyaraj, Advocate SR.NO..19256

AKM/31.03.21/ 3P-6C/

CrI.O.P.Nos.4544 & 4638 of 2021 &
CrI.M.P.No.2911 of 2021
24.03.2021