

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.7041 of 2021

Rathinasamy

... Petitioner

.Vs.

Mahalingam

..Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order made in CMP No.1210 of 2021 dt.12.03.2021 on the file of the learned Judicial Magistrate Court No.I, Pollachi.

For Petitioner : Mr.M.N.Balakrishnan

ORDER

This Criminal Original Petition has been filed to set aside the order made in CMP No.1210 of 2021 dt.12.03.2021, on the file of the learned Judicial Magistrate Court No.I, Pollachi.

2.When the matter was taken up hearing on 15.04.2021, this Court passed an order and the same was extracted hereunder:

"The respondent / complainant made a complaint under Section 138 of the Negotiable Instruments Act before the Judicial Magistrate No.I, Pollachi in STC No.2704 of 2017. The respondent/complainant had examined himself as PW1 and the matter was posted for cross examination, but the petitioner / accused failed to cross examine the respondent/complainant in spite of several opportunities. Hence, the evidence of PW 1 was closed.

2. The petitioner / accused, who was aged about 64 years, filed a petition under Section 311 of Cr.P.C., in Crl.M.P.No.1210 of 2021 to recall the witness of PW1 for the purpose of cross examination. The trial Court by order, dated 06.03.2021 allowed the said petition with a condition that the petitioner / accused should pay the costs of Rs.1,500/- on or before 11.03.2021. Despite sufficient time given to the petitioner/accused, he has not paid the cost of Rs.1,500/-. In view of the

same, the petition filed under Section 311 of Cr.P.C., was dismissed.

3. The learned counsel for the petitioner / accused filed the above Criminal Original Petition stating that he was unable to mobilise the costs within the stipulated period of 5 days and hence the petition filed under 311 of Cr.P.C. was dismissed and now he is ready to pay the costs of Rs.1,500/-.

4. In view of the same, this Court directs the petitioner to pay the cost of Rs.1,500/- to the complainant on or before 22.04.2021 and produce the proof of the same. Hence, post this matter on 26.04.2021 "for reporting compliance".

3. When the matter was came up hearing today, the learned counsel for the petitioner submitted that the petitioner had deposited the cost of Rs.1500/-, to the complainant and the receipt has been produced.

4. In view of the above, the petition filed under Section 311 of Cr.P.C., dismissed by the Court below is set aside. The petitioner is permitted to recall PW-1 and to cross examine PW-1.

5. This Criminal Original Petition is accordingly allowed with the above directions.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

KP

To

1. Judicial Magistrate Court No.I,
Pollachi.

2.-do-through The Chief Judicial Magistrate,
Coimbatore.

+1cc to Mr.M.N.Balakrishnan, Advocate, S.R.No.25509

CRL.O.P.No.7041 of 2021

UM(CO)
CB(08/07/2021)