



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.14252 of 2021

1. Garata Rao
2. C.Naga Chaitanya Vijaya Gupta Innamuri
...Petitioners/Accused
Versus

T.V. Krishna Rao, C.E.O.,
M/s. Sree Deepthi Ventures Limited,
Represented by his Power Agent
B. Janarthanam Naidu,
No.123, M.T.H Road,
Ambattur, Chennai - 600 053
...Respondents/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the dismissal order passed by the learned Judicial Magistrate, Fast Track Court (Magistrate level) at Ambattur against CMP No.1475 of 2021 in CC.No.97 of 2017 dated 10.05.2021.

For Petitioners : M/s.T. Sivachanasambandan

ORDER

This petition has been filed to set aside the dismissal order passed by the Judicial Magistrate, Fast Track Court (Magistrate Level) Ambattur in CMP NO.1475 of 2021 in C.C.No.97 of 2017 dated 10.05.2021.

2. The petitioners, who are accused in C.C.No.97 of 2017, had filed a petition under Section 311 Cr.P.C. in CMP No.1475 of 2021 seeking to recall P.W.1 for further cross examination for the purpose of marking the agreement entered into between the petitioners and the respondent. The Trial Court, by an order dated 10.05.2021 dismissed the same. Against which, the present petition has been filed.

3. The learned counsel for the petitioners would submit that on 01.09.2017, P.W.1 admitted in his evidence that he shall produce the agreement entered into between the petitioners



and the respondent. But, he failed to do so. Though the trial Court granted time, P.W.1 failed to appear and thereafter, the Trial Court, on its own accord has closed the evidence of P.W.1. Thereafter, the petitioners were questioned under Section 313 Cr.P.C. The 2nd petitioner examined himself as defence witness by filing petition under Section 315 Cr.P.C. Now, the cross examination of P.W.1 is necessary, failing which, great prejudice would be caused.

4. Considering the submission of the learned counsel for the petitioner and from the perusal of the materials, it is seen that there is no whisper about any agreement between the petitioners and the respondent. More specifically, even in the cross examination of P.W.1 dated 01.09.2017, there is no whisper about the existence of any such agreement. Further the 2nd petitioner/DW1 himself has not mentioned about the agreement. The trial Court, after considering all these aspects, rightly dismissed the petition stating that the petitioner had been deliberately following the dilatory tactics to protract the trial and dismissed the recall petition. This Court find that there is no reason to interfere with the order of the trial Court and the same is liable to be dismissed.

5. Accordingly, the Criminal Original Petition is dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Judicial Magistrate (FTC)
(Magistrate Level) at
Ambattur.
2. The Public Prosecutor
High Court, Madras.

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NSK 09/09/2021