



Crl.O.P.No.21552 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.21552 of 2021 and
C.M.P.No.11682 of 2021

M. Venkatachalapathy

...Petitioner

Vs.

K.A.Ravikumar

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Cr.P.C., to set aside the order dated 31.08.2021 made in Crl.M.P.No.2490 of 2020 in S.T.C.No.712 of 2012 on the file of the Judicial Magistrate of Perundurai.

For Petitioner : Mr.M.Guruprasad

For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to set aside the order dated 31.08.2021 made in Crl.M.P.No.2490 of 2020 in S.T.C.No.712 of 2012 on the file of the Judicial Magistrate of Perundurai.



Crl.O.P.No.21552 of 2021

WEB COPY

2. The Petitioner/Accused is facing trial under Section 138 of the Negotiable Instruments Act, 1881 in S.T.C.No.712 of 2012, before the learned Judicial Magistrate, Perundurai on the complaint filed by the Respondent. Pending trial, the petitioner/accused filed a petition under Section 311 of Cr.P.C. seeking to recall P.W.1 for further cross examination. The Lower Court considering the fact that the case is pending from 2012 and posted for arguments, coupled with the fact that the accused had not taken any steps to cross examine PW1, during trial and the application was filed only to drag on the proceeding, dismissed the petition filed by the petitioner vide order dated 31.08.2021.

3. The learned counsel appearing for the Petitioner submits that the case has been numbered in the year 2012 and the trial was commenced in the year 2019. He further submitted that P.W.1 was cross examined on 13.09.2012 and the respondent/complainant side evidence was closed on 11.03.2020 and at the time of cross examination of P.W.1, some important



Crl.O.P.No.21552 of 2021

points are omitted by the petitioner/accused and if P.W.1 was not cross examined with respect to those points, the petitioner/accused cannot defend his case. However, he fairly submits that an opportunity may be given to the petitioner/accused to file explanation, which may be considered as explanation under Section 313 Cr.P.C.

4. The learned Additional Public Prosecutor submitted that the opportunity may be given to the petitioner/accused to submit his explanation under Section 313 Cr.P.C. and the same may be directed to be considered by the Lower Court.

5. Heard both sides. Perused the records.

6. Considering the submissions made by the learned counsel appearing on either side this Court feels that the explanation can be given by the accused at any stage, it is not necessary that it should be only on conclusion of recording of prosecution evidence and a reading Section 313 Cr.P.C. confirms the same.



Crl.O.P.No.21552 of 2021

WEB COPY

7. In view of the same, the petitioner is permitted to give his explanation along with documents if any to put forth his defense before the trial Court, within a period of one week from today and on such explanation and materials filed, the same shall be considered by the Lower Court.

8. With the above directions, this Criminal Original petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

23.11.2021

Index : Yes / No

Internet : Yes / No

arr

Note: Issue order copy on 24.11.2021

To

1.The Judicial Magistrate,
Perundurai

2.The Public Prosecutor,
High Court of Madras.



WEB COPY



Crl.O.P.No.21552 of 2021

M.NIRMAL KUMAR.,J

arr

Crl.O.P.No.21552 of 2021

23.11.2021