



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 06.01.2021

CORAM

THE HONOURABLE MR.JUSTICE G.ILANGOVAN

Crl.M.P. (MD)No.2328 of 2020

in

Crl.O.P. (MD)No.14369 of 2017

WEB COPY

A.Prema

.. Petitioner/Petitioner

vs.

S.Devi

.. Respondent/Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 482 of Cr.P.C., to extend the time granted by this Court in Crl.O.P.(MD) No.14369 of 2017, dated 12.09.2019 for cross-examination of PW1 in S.T.C.No.467 of 2016 pending before the learned District Munsif-Cum-Judicial Magistrate, Bhoothapandy.

Prayer in CRL OP(MD). 14369 of 2017 :

Criminal Original Petition is filed under section 482 of Criminal Procedure Code, praying this Hon'ble Court to call for the records pertaining to the order passed by learned Judicial Magistrate Cum District Munsif Bhoothapandy in CMP.No.3048/2017 in STC.467/2016 dated 06.09.2017 and set aside the same and may direct the trial court to permit the petitioner for cross examining PW.1 and P.W.2 to substantiate fair trial discipline in the interest of justice.

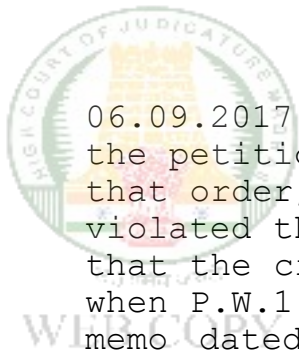
For Petitioner	: Mr.K.P.Narayanakumar
For Respondent	: Mr.N.Dilipkumar

ORDER

This petition is filed seeking an order for extending the time granted by this Court in Crl.O.P.(MD)No.14369 of 2017, dated 12.09,2019 for cross examination of PW1 in S.T.C.No.467 of 2016 pending on the file of the learned District Munsif Cum Judicial Magistrate, Bhoothapandy.

2.Heard the learned counsel on either side and perused the records.

3.A perusal of the records shows that this Court in Crl.O.P. (MD)No.14369 of 2017 has directed the Trial Court to fix a date for appearance of the complainant, namely, P.W.1 and on that day itself, the petitioner must cross examin the witness and if it was not done, the petitioner shall forfeit her right to recall P.W.1 for cross examination in future. That application was filed challenging the order passed by the Trial Court in Crl.M.P.No.3048 of 2017, dated



06.09.2017 by which, the Trial Court dismissed the petition filed by the petitioner to recall P.W.1 for cross examination. Subsequent to that order, it appears that not only the parties, but also the Court violated the direction given by this Court with impunity. It appears that the cross examination was adjourned for one another reason. Now when P.W.1 was cross examined in part, the respondent herein filed a memo dated 19.12.2019 stating that the petitioner herein has not complied with the order of this Court, whileso, he has lost the right of cross examination. This memo was heard at length by the Trial Court and by its order dated 20.01.2020 recorded the memo and closed the cross examination of P.W.1. This petition is filed to extension of time. As mentioned earlier, the order of this Court was not complied in letter and spirit by the Trial Court and as well as by the parties.

4.Considering the developments subsequent to the order passed by this Court, this Court is of the considered view that a final chance may be given to the petitioner to complete the cross examination of the complainant, in the interest of fair trial on condition, the petitioner shall deposit a sum of Rs.5,000/- (Rupees Five Thousand Only) as costs to the Taluka Legal Services Authority, Bhoothapandy, within a period of ten days from the date of receipt of a copy of this order. On production of the receipt of cost, the Trial Court is directed to fix the date for cross examination of P.W.1 within ten days thereafter and is further directed that no adjournment shall be granted. After completion of the cross examination, the Trial Court is directed to send the compliance report to the Registry.

5.Accordingly, the Criminal Miscellaneous Petition is allowed on the above grounds.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Sji

Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

The District Munsif-Cum- Judicial Magistrate,
Bhoothapandy.

Copy to

1.The Registrar(Judicial)
Madurai Bench of Madras High Court,
Madurai.

2.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai (2 copies)

+1 CC to Mr.K.P.NARAYANA KUMAR, Advocate (SR-609[F] dated
08/01/2021)

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VB (08.02.2021) 3P 6C