



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE **G. ILANGO VAN**

Crl.O.P.(MD)No.9872 of 2021 and
Crl.M.P(MD) No.5022 of 2021

Kalaivani ... Petitioner/Accused

Vs.

Latha ...Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to set aside the order in Cr.M.P.No.1532 of 2021 in S.T.C No.778 of 2016, dated 04.05.2021 passed by the Judicial Magistrate, Aranthangi.

For Petitioner : Mr.K.C.Maniyarasu

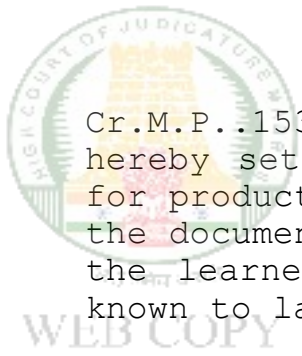
ORDER

This petition has been filed to set aside the order in Cr.M.P.No.1532 of 2021 in S.T.C No.778 of 2016, dated 04.05.2021 passed by the Judicial Magistrate, Aranthangi.

2. The case of the petitioner is that during the pendency of STC No.778 of 2016, the petitioner herein had filed a petition seeking a direction to produce certain documents before the trial Court, which came to be dismissed. Aggrieved, the petitioner has come before this Court with this present Criminal Original Petition.

3.Heard the learned counsel for the petitioner.

4.On perusal of records, it is seen that the case is of the year 2016. PW 1 was examined in chief on 28.04.2017 and cross examination was completed on 27.10.2017. After lapse of 3 ½ years, the petitioner moved an application to recall PW 1 along with petition under Section 91 of Cr.P.C , seeking production of certain documents. The petition filed to produce documents came to be dismissed by the trial Court on the ground that there was a delay of 3 ½ years and further there is no evidence on record to show that the document that sought to be produced are in the custody of the respondent herein. The correctness of the findings of the trial Court is challenged in this petition. Since it is admitted by the respondent that the custody of the documents sought to be produced is with her and the same ought to have permitted to be produced before the Court. Considering the facts and circumstances of the case and in the interest of justice, the order of the trial Court is liable to set aside. The order passed by the trial Court in



Cr.M.P..1532 of 2021 in S.T.C No.778 of 2016, dated 04.05.2021 is hereby set aside. The learned Magistrate is directed to fix a date for production of documents and cross examination with reference to the documents. If the opportunity is not utilised by the petitioner, the learned Magistrate shall proceed with the case in the manner known to law, as expeditiously as possible.

5. With the above direction, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vrn

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

1.The Judicial Magistrate, Aranthangi.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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Crl.M.P (MD) No.5022 of 2021
23.07.2021

MGJ(03.08.2021) 2P 3C