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Crl.OP.Nos.14995 & 15052 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl.O.P. Nos.14995 & 15052 of 2022

and

Crl.M.P.Nos.8355 & 8431 of 2022

M.Chandrasekar

... Petitioner in both Crl.O.P's

Vs.

G.Sakthi Vadivel

... Respondent in both Crl.O.P's

PRAYER in Crl.O.P.No.14995 of 2022: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the order dated 04.04.2022 made in C.M.P.No.1710 of 2021 in STC.No.480 of 2018 on the file of the Judicial Magistrate (Fast Track Court No.1 Erode) by allowing the Criminal Original Petition.

PRAYER in Crl.O.P.No.15052 of 2022: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the order dated 04.04.2022 made in C.M.P.No.1711 of 2021 in STC.No.480 of 2018 on the file of the Judicial Magistrate (Fast Track Court No.1 Erode) by allowing the Criminal Original Petition.



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For Petitioner in both Crl.O.P's : C.S.Saravanan

COMMON ORDER

These Criminal Original Petitions have been filed to set aside the orders passed by the learned Judicial Magistrate, Fast Track Court No.1 Erode in C.M.P.Nos.1710 & 1711 of 2021 in STC.No.480 of 2018.

2. The learned Counsel for the petitioner submitted that earlier the petitioner had filed the application to recall P.W.1 under Section 311 of Cr.P.C in C.M.P.No. 841 of 2020 and the same was allowed by the learned Trial Judge subject to the payment of cost of Rs.1000/- to the respondent. Though the petitioner had paid a sum of Rs.1000/-, due to Covid-19 lock down and restriction of litigants entries, the petitioner was unable to cross examine the P.W.1. However, the petitioner had filed the second application before the Trial Court in C.M.P.Nos.1710 & 1711 of 2021 to recall PW1 for cross examination and the same was dismissed by the Trial Court. Aggrieved over the dismissal orders, the present petitions have been filed.

3.Heard the learned counsel for the petitioner and perused the entire



materials available on record.

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4. Considering the fact that there is limited scope of cross examination of P.W.1, this Court is of the view that one more final chance has to be given to the petitioner to cross examine the witness PW1. The Trial Court shall fix specific date to summon PW1 for cross examination. The cross examination shall be completed on the same day when the witness is present before the Trial Court. In the event of the petitioner failed to cross examine the witness on the same day, he will lose the right of cross examining the witness PW1. After the cross examination, the Trial Court shall proceed with and dispose of the main case on merits within a period of two months.

5. With the above direction, both these Criminal Original petitions are allowed. Consequently, connected miscellaneous petitions are closed.

01.07.2022

Index: Yes/No
Speaking Order / Non-Speaking Order
nti/shk



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N. SATHISH KUMAR, J.

nti/shk

To

1.The Judicial Magistrate,
Fast Track Court No.1,Erode.

Crl.O.P. Nos.14995 & 15052 of 2022
and
Crl.M.P.Nos.8355 & 8431 of 2022

01.07.2022