



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2022

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.16056 of 2020

and

CrI.MP.No.6144 of 2020

Andavar Feeds represented by
Its Partner S.Natarajan
D.No.5/43, Senkuttaikadu,
Munjunur Post,
Gurusami Palaiyam Via.,
Tiruchengode Taluk
Namakkal District.

... Petitioner/Accused

Vs.

Arasu Agencies represented by
Its Proprietor K.P.Jayapal
D.No.43, Sivagnanam Street,
Ganesapuram, Namakkal Street.

... Respondents/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records and set aside the order dated 14.09.2020 in C.M.P.No.1855 of 2020 in C.C.No.394 of 2015 on the file of the Judicial Magistrate -I, Namakkal.

For Petitioner : Mr.Sivavarthanan

For Respondent : Mr.S.Senthil

O R D E R

This petition has been filed by the petitioner to call for the records and set aside the order dated 14.09.2020 in C.M.P.No.1855 of 2020 in C.C.No.394 of 2015 on the file of the Judicial Magistrate-I, Namakkal.

2. The respondent has lodged a complaint as against the petitioner for the offences punishable under Section 138 of the Negotiable Instruments Act. After examination of P.W.1 in full while the matter was posted for defence side witness, the respondent herein filed a petition under Section 311 of Cr.P.C



to recall P.W.1. It is seen from the petition filed under Section 311 of Cr.P.C in C.M.P.No.184 of 2022 that the respondent was fully cross examined and thereafter he want to re-call himself to explain the questions which were asked during cross examination in-respect-of Exs.P1, P2, P3, P4, P5, P6, P7 , P15, P16 and P17. It is nothing, but to fill up the lacuna and as such the Court ought not to have allowed the petition. That apart, while this petition is pending, the respondent has also filed three other petitions to re-call the prosecution witnesses under Section 311 of Cr.P.C in which one petition was dismissed and the other petitions to re-open and re-call the prosecution witnesses/complainants witness are pending in CMP.Nos.1156 and 1157 of 2021. Therefore, the present impugned order cannot be sustained and liable to be set aside.

3. Accordingly, this Criminal Original Petition stands allowed and the impugned order in C.M.P.No.1855 of 2020 in C.C.No.394 of 2015 on the file of the Judicial Magistrate-I, Namakkal is hereby set aside. Consequently, connected miscellaneous petition is closed.

4. Now, the learned counsel for the petitioner has submitted that the main case in CC.No.394 of 2015 has been transferred to the learned Judicial Magistrate -II, Namakkal and re-numbered as C.C.No.601 of 2021. This Court directs the trial court to complete the trial within a period of three months from the date of receipt of a copy of this Order.

Sd/-

Assistant Registrar(CS-II)

//True copy//

Sub Assistant Registrar

Vv
To

1. The Judicial Magistrate-I, Namakkal
 2. The Judicial Magistrate-II, Namakkal
 3. -do- Through The Chief Judicial Magistrate, Namakkal.
- +1cc to Mr.M.Sivavarthan, Advocate SR.No.36301

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EV(CO)
GMY(22/06/2022)