



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.NO.22205 OF 2021

Shanmugasundaram
S/o.Rangasamy Gounder,
Shanmugapalayam,
Paranchervazhi Post,
Kangeyam Taluk,
Tiruppur Distrit - 641604.

... Petitioner

Vs

Thangamuthu
S/o Plaanisamy Gounder
Senkattu Thottam,
Kuttavalasu,
Naalroad Village,
Kangeyam Taluk,
Tiruppur District.

... Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records pertaining to the petition and order dated 12.08.2021 in Crl.M.P.No.2054 of 2021 in S.T.C. No.48 of 2018 on the file of Judicial Magistrate, Kangeyam and set aside the same.

For Petitioner : Mr.N.Ponraj

For Respondent : Mr.M.Guruprasad

ORDER

This Criminal Original Petition has been filed to call for the records pertaining to the petition and order dated 12.08.2021 in Crl.M.P.No.2054 of 2021 in S.T.C. No.48 of 2018 on the file of Judicial Magistrate, Kangeyam and set aside the same.

2. Heard both sides.



3. The learned counsel for the petitioner stated that the trial Court has dismissed the petition filed by the petitioner under Section 311 of Cr.P.C to cross examine P.W.1 for the reason that cost has not paid. The petitioner is an accused in this case. The complaint has been lodged by the respondent for the offence under Section 138 of Negotiable Instruments Act. The respondent was examined as P.W.1, however, he was not cross examined by the petitioner. Thereafter, the petitioner filed a petition to recall P.W.1 for cross-examination under Section 311 of Cr.P.C and the same was allowed by order dated 14.02.2020 with the condition on payment of cost of Rs.500/- to the respondent herein on or before 12.03.2020. However, the petitioner was not able to comply with the condition. Thereafter, the trial Court dismissed the petition by order dated 12.08.2021. The petitioner may be given one more opportunity with a condition on payment of costs at Rs.1000/-.

4. Considering the facts and circumstances of the case, this petition is allowed with the condition to pay a sum of Rs.1000/- as costs to the respondent within a period of two weeks from the date of receipt of a copy of this order. The trial Court also directed to fix the date for cross-examination of P.W.1 and if the petitioner failed to cross-examine the P.W.1 on the date fixed by the trial Court, the trial Court may proceed the trial and complete the trial within three months.

5. Accordingly, this Criminal Original Petition is allowed.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

pbl

To

The Judicial Magistrate,
Kangayam.

+1cc to Mr.M.Guruprasad, Advocate, S.R.No.32851

Cr1.O.P.No.22205 of 2021

SMI (CO)

RLP (23/06/2022)