



Crl.O.P.(MD) No.13904 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2022

CORAM:

THE HONOURABLE MR. JUSTICE **V.SIVAGNANAM**

Crl.O.P.(MD) No.13904 of 2022
and Crl.M.P(MD) No.8917 of 2022

Duraisebastin

...Petitioner

VS

Murali

..Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to call for the records pertaining to the order learned Principal District Judge Pudukkottai dt 11.02.2020 made in Cr.R.P.No.07/2019 by confirming the order of the learned Judicial Magistrate Keeranur dt 27.03.2019 made in Cr.M.P.No.1527/2019 in STC No.429 of 2015(now pending before District Munsif cum Judicial Magistrate Court, Iluppur, Pudukottai District in STC No. 300 of 2019) and set aside the same as illegal and allow this petition.

For Petitioner : Mr.K.Arun Raj



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ORDER

This Criminal Original Petition has been filed seeking a direction to call for the records pertaining to the order learned Principal District Judge Pudukkottai dt 11.02.2020 made in Cr.R.P.No.07/2019 by confirming the order of the learned Judicial Magistrate Keeranur dt 27.03.2019 made in Cr.M.P.No.1527/2019 in STC No.429 of 2015(now pending before District Munsif cum Judicial Magistrate Court, Iluppur, Pudukottai District in STC No. 300 of 2019) and set aside the same as illegal and allow this petition.

2. The learned counsel for the petitioner would submit that the petitioner has filed a petition under Section 311 of Cr.P.C before the learned Judicial Magistrate, Keeranur for recalling PW.1 in STC No. 429 of 2015 and it was dismissed by the trial Court on 27.03.2016. Aggrieved by the said order he has filed a Criminal Revision before the learned Principal Sessions Judge, Pudukottai and it was dismissed for default on 11.02.2020. Now has filed the present petition to set aside the impugned order.



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3. He would further submit that the case in STC No.429 of 2015 pending on the file of the learned Judicial Magistrate, Keeranur is now transferred to the file of the learned District Munsif cum Judicial Magistrate Illupur and re-numbered as STC No.300 of 2019.

4. From the perusal of the records it is seen that the petitioner is an accused in STC No.429 of 2015 on the file of the learned Judicial Magistrate, Keeranur. The petitioner was prosecuted for the offence under Section 138 of the Negotiable Instrument Act. In that case after examination of complainant side witness, the petitioner filed application under Section 311 of Cr.P.C to recall PW.1 for the purpose of cross examining him. It was taken on file by the learned Judicial Magistrate, Keeranur in Cr.M.P.No.1527 of 2019 and after hearing both parties dismissed the petition filed under Section 311 of Cr.P.C on 27.03.2019. Aggrieved by that the petitioner CRP No.7 of 2019 before the learned Principal Sessions Judge, Pudukottai and it was dismissed for non prosecution on 11.02.2020.

5. The petitioner has option to file revision either before the Sessions Court under Section 397 of Cr.P.C or before this Court under Section 401 of



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Cr.P.C. The petitioner has opted to file revision before the learned Sessions Judge and it was dismissed for non prosecution, since there was no representation on the side of the petitioner. Further there is liberty to the petitioner to file application to restore the petition dismissed for default, hence without filing the petition before the Sessions Court he has straight away approached this Court.

6. In view of the same, this petition stands closed with liberty to the petitioner to approach the Sessions Court to file application to restore the revision petition dismissed. Consequently connected miscellaneous petition is also closed.

02.08.2022

Internet: Yes
Index: Yes/No
aav

To

1. The Principal District Judge Pudukkottai
2. The Judicial Magistrate Keeranur
3. The District Munsif cum Judicial Magistrate Court,
Iluppur, Pudukottai District



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V.SIVAGNANAM, J.

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