



Crl.O.P.(MD)No.22152 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 15.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

Crl.O.P.(MD) No.22152 of 2022
and Crl.M.P.(MD).No.15640 of 2022

S.B.Sekar

... Petitioner

Vs.

S.V.Subramanian

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records and set aside the Impugned Order passed in Crl.MP.No.5961/2022 filed in STC.No.172/2021, dated 30.11.2022, on the file of the Judicial Magistrate Court, Tiruchendur.

For Petitioner : Mr.P.M.Vishnuvarthanan

ORDER

This petition is filed to set aside the order passed in Crl.MP.No. 5961/2022 filed in STC.No.172/2021, dated 30.11.2022, on the file of the Judicial Magistrate Court, Tiruchendur.

2.Challenging the order that was passed dismissing the petition filed by the petitioner under Section 311 Cr.P.C., this Petition has been filed by the petitioner stating that in order to prove the collateral



transaction, since they are having operating two accounts, the Bank Manager must be examined. During the course of cross examination some leading question was put by the counsel for the defacto complainant with regard to the identity of the party. For that purpose of explaining the above said identity, he wanted to recall DW1 and that was even though not objected by the complainant's counsel, the trial Court has dismissed the same on the ground that it is delaying tactics.

3. When no objection was endorsed by the defacto complainant, this Court is not in position to appreciate the reason stated by the trial Court. On the next day of the above said examination, this petition has been filed by the petitioner.

4. Considering the above said fact, the order passed by the trial Court in Crl.M.P.No.5961 of 2022 filed in S.T.C.No.172 of 2021, dated 30.11.2022 is set aside and this petition is allowed with the following stringent conditions.

- 1) The petitioner must deposit a sum of Rs.2,000/- (Rupees Two Thousand only) as cost to the witnesses to the credit of S.T.C.No.172 of 2021, before the trial Court, within a period of 15 days from the date of receipt of a



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copy of this order.

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2) On such deposit, the trial Court is directed to recall the witnesses D.W.1 by fixing a particular date. On that date, the petitioner must examine D.W.1 without fail. If any failure is noticed, then the further right to cross examine the witnesses will be forfeited.

Consequently, connected miscellaneous petition is closed.

Index : Yes/No
Internet : Yes/No
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15.12.2022

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

G.ILANGOVA. J.



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