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Crl.O.P.No.4427 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.4427 of 2023

&

Crl.M.P.No.2790 of 2023

V.Kavitha

...Petitioner

Vs.

Murugesan

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records relating to the order sheet/adjudication in respect of STC.No.1376/2021 on the file of the Judicial Magistrate No.I, Namakal and thereby set aside the entire order passed on dated 23.01.2023.

[prayer amended as per the order dated 07.03.2023 in Crl.M.P.No.3422 of 2023 in Crl.O.P.No.4427 of 2023].

For Petitioner : Mr.R.Narayanan

ORDER



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This Criminal Original Petition has been filed to call for the records relating to the order sheet/adjudication in respect of STC.No.1376/2021 on the file of the Judicial Magistrate No.I, Namakal and thereby set aside the entire order passed on dated 23.01.2023.

2. Learned counsel for the petitioner submitted that, petitioner filed C.M.P.No.7024 of 2022 in STC.No.1376 of 2021 for recalling of PW1, for the purpose of cross examination. The petition was allowed by learned Judicial Magistrate No.1, Namakal, on the conditions that,

- (i) To pay a costs of Rs.3000/- to the respondent.
- (ii) To cross examine the witness on the date of the appearance of PW1.

3. As per the conditions, petitioner paid Rs.3000/-, however, when PW1 appeared for cross examination on 19.01.2023, learned counsel for the petitioner could not be present and therefore, PW1 could not be cross examined. On the failure of the cross examination of PW1, learned Judge closed the evidence of PW1. Unless PW1 is cross examined, petitioner would be seriously prejudiced. Therefore, this petition is filed challenging the closure



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of evidence on 23.01.2023.

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4. In the light of the submission of learned counsel for the petitioner that petitioner complied with one part of the condition and paid Rs.3000/- as costs, this Court is of the view that petitioner should be given one opportunity to cross examine PW1.

5. Therefore, Order passed by Judicial Magistrate No.I, Namakal on 23.01.2023 is set aside.

6. Accordingly, this Criminal Original Petition is disposed of, with the following conditions,

(i) Learned Judicial Magistrate No.I, Namakal is directed to permit the petitioner to cross examine PW1 on the date fixed by the learned Magistrate.

(ii) PW1 is directed to complete the cross examination on the same day, when PW1 appears for cross examination.



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G.CHANDRASEKHARAN, J.
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7. Consequently, the connected Miscellaneous Petition is closed.

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Internet :Yes
Index :Yes/No

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