



CrI.O.P.No.7118 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED:29.03.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

CrI.O.P.No.7118 of 2023

and

CrI.M.P.No.449 of 2023

K.Rajesh

... Petitioner

Vs.

R.Ramasamy

... Respondent

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records pertaining to the impugned order dated 20.03.2023 in CrI.M.P.No.11366 of 2023 in C.C.No.3120 of 2020 on the file of the learned Fast Track Court II, Egmore at Allikulam, Chennai and set aside the same.

For Petitioner : Mr.John Sathyan (Sr. Counsel)

for Mr.M.Roshan Atiq

For Respondent : Mr.S.Santhosh

Government Advocate (CrI.Side)

ORDER

This Criminal Original Petition has been filed to call for the records pertaining to the impugned order dated 20.03.2023 in CrI.M.P.No.11366 of 2023 in C.C.No.3120 of 2020 on the file of the learned Fast Track Court II, Egmore at Allikulam, Chennai and set aside the same.

2. The learned counsel for the petitioner submitted that, petitioner is



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an accused in C.C.No.3120 of 2020. In this case, after examination of witnesses, petitioner was questioned under Section 313 of Cr.P.C., Thereafter, the matter was adjourned to 28.02.2023 for defence evidence. When the matter was posted on 28.02.2023 for defence evidence, petitioner could not be able to produce the defence evidence, for the reason that his counsel met with an accident. However, learned Judge, without giving opportunity for production of defence evidence, closed the petition on 20.03.2023 and posted the matter for argument on 28.03.2023. On 28.03.2023, complainant side argument was heard. Petitioner filed petition under Section 254 of Cr.P.C in Crl.M.P.No.11366 of 2023 for examination of defence witnesses. The affidavit filed along with the petition details about the circumstances under which, defence witnesses could not be examined on 28.02.2023. However, the learned Judge without considering the petitioner's claim, dismissed the petition stating that, "REASON NOT SATISFIED. SUFFICIENT OPPORTUNITIES GIVEN" and dismissed the petition.

3. MR.R.Muthukumar, learned Counsel submitted that, he wants to file Vakalat on behalf of the respondent. He also submitted that, he has no objection .



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4. Considering the limited scope of the prayer sought for by the petitioner, this Court is of the view that, filing of the Vakalat is not essential. However, his submission is recorded.

5. On perusal of the order of the learned Judge in Crl.M.P.No.11366 of 2023 seeking permission for examination of defence witnesses with a two page affidavit running into four para, the main reason stated is that his Counsel met with an accident and his two legs got broken and he was taking treatment and therefore, defence witnesses could not be examined. In view of the elaborate affidavit filed in support of the petition, dismissal of the petition stating that the reasons are not satisfactory is not correct. Only one opportunity was given for defence evidence and therefore, the reasons given for dismissal of the petition is not just and appropriate.

6. In this view of the matter, the order of the learned Fast Track Court -II, Egmore in Crl.M.P.No.11366 of 2023 is set aside. Accordingly, this Criminal Original Petition is allowed. The learned Judge is directed to provide sufficient and reasonable time for the petitioner for examination of defence



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witnesses and dispose the case on merits and in accordance with law.

Consequently, connected miscellaneous petition is closed.

29.03.2023

sma

To,

The Fast Track Court II, Egmore,



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G.CHANDRASEKHARAN,J.

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