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Crl.O.P.No.1378 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.1378 of 2023

1.Sri Dhanam Tex
By its Prop.P.Perumal
S/o.Perumal,
No.180B, Paappapatty Kattuvalavu,
Edanganasalai Village,
Sankari Taluk,
Salem District – 637 502.

2.P.Perumal

...Petitioners

Vs.

Veeramani

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside order passed in CMP No.2778/2022 in C.C.No.129/2022 dated 18.11.2022 by the District Munsif Cum Judicial Magistrate, Edapadi and permit the petitioner to cross examine the respondent/PW1 within the stipulated time provided by the Court.

For Petitioners : Mr.T.Balaji

For Respondent : Mr.Veeramani (Party in person)



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ORDER

WEB COPY This Criminal Original Petition is filed to set aside the order in C.M.P.No.2778 of 2022 in C.C.No.129 of 2022, dated 18.11.2022, passed by the District Munsif Cum Judicial Magistrate, Edapadi and permit the petitioner to cross examine respondent/PW1 within the stipulated time provided by this Court.

2. The learned counsel for the petitioner submitted that petitioner filed C.M.P.No.2778 of 2022 in C.C.No.129 of 2022 to recall PW1 for the purpose of cross examination. However, that petition was dismissed. Therefore, this petition is filed challenging the dismissal order.

3.Respondent Mr.Veeramani (Party in person) is present. He submitted that the case is pending from 2014 in S.T.C.No.167 of 2015, on the file of the Judicial Magistrate II, Sankari and then transferred to the file of the District Munsif Cum Judicial Magistrate, Edapadi and pending in C.C.No.129 of 2022. He has been regularly appearing before the Court and ready for the purpose of the cross examination, but petitioner deliberately omitted to cross examine the respondent. When the matter is pending for judgment, petitioner



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has filed a petition under Section 311 Cr.P.C. to recall respondent/PW1 for the purpose of cross examination. Respondent is prepared to accede to the claim of the petitioner to recall him for the purpose of cross examination and insisted that cross examination should be conducted and completed on the same day and that trial should also be completed soon.

4.Considered the rival submissions and perused the records.

5.As narrated above, a case under Section 138 N.I.Act is filed against the petitioner in S.T.C.No.167 of 2015, on the file of the Judicial Magistrate II, Sankari. Thereafter, it was transferred to the file of the District Munsif Cum Judicial Magistrate, Edapadi and pending in C.C.No.129 of 2022. It is the submission of the respondent that he filed his sworn affidavit on 01.02.2017 and thereafter, he was never cross examined despite he was present on several dates.

6.Taking note of these facts and also the submission of the learned counsel appearing for the petitioner and respondent, this Court set asides the order in C.M.P.No.2778/2022 in C.C.No.129/2022, dated 18.11.2022, passed



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by the District Munsif Cum Judicial Magistrate, Edapadi and directs the petitioner to pay the costs of Rs.5,000/- to the respondent within a period of two weeks from the date of receipt of a copy of this order. On such payment of costs to the respondent, petitioner may be permitted to cross examine the respondent on the date fixed by the learned District Munsif Cum Judicial Magistrate. If the petitioner fails to avail the opportunity of cross examining the respondent on the date fixed, no more opportunity shall be given to the petitioner. Thereafter, the learned District Munsif Cum Judicial Magistrate is directed to examine the other witnesses on the side of the respondent and then the witnesses on the side of the petitioner and dispose the case as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order.

7.Accordingly this Criminal Original Petition is disposed of.

19.06.2023

Internet :Yes
Index :Yes/No
sli



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- To:
- 1.The District Munsif Cum Judicial Magistrate,
Edapadi.
 - 2.The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN, J.
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