



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.11.2023

CORAM :

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.26882 of 2023

Sri Devi

... Petitioner

-VS-

Dhanalakshmi

.. Respondent

PRAYER: Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records in C.C. No.40 of 2016 on the file of the Judicial Magistrate, Fast Track Court No.I @ ML, Coimbatore and set aside the order dated 27.10.2023 with respect to imposition of cost of Rs.10,000/- by allowing the petition in Cr.M.P. No.3183 of 2023.

For Petitioner

: Mr.K.Balasubramaniam

ORDER

The petition is filed to set aside the order passed by the learned Judicial Magistrate Fast Track Court No.I @ ML, Coimbatore on 27.10.2023. The impugned order been passed by the learned Judicial Magistrate on an Application filed by the petitioner herein under Section 311 Cr.P.C. to recall



P.W.1/complainant who was examined in chief as early as on 04.04.2016 and partly cross examined on 04.11.2016. Thereafter, there was no cross examination and evidence was closed. The Application to reopen and recall P.W.1 was made on 05.03.2023 and the same was allowed on condition by the learned Judicial Magistrate directing the petitioner to pay costs of Rs.10,000/- to P.W.1 on or before the next hearing date and to cross examine him on the same day. The next hearing date fall on 30.10.2023 i.e., on three days after the impugned order passed.

2. It is now contended by the learned counsel appearing for the petitioner that since there was only three days time to deposit the money, the petitioner was not able to mobilise the money to pay the costs and hence, he lost opportunity of cross examining the P.W.1. Therefore, sought for extension of time to pay the cost amount and to reduce the cost imposed. Though the petitioner may have some reasons for not paying cost within three days time, prayer for reduction of cost imposed does not appear to be fair, since the matter is pending for more than seven years and his prayer to recall of P.W.1 who was partly cross examined before seven years ago was graciously allowed by the trial Court.



3. Hence, the petition is ***dismissed***. However, the dismissal of this petition shall not stand in the way of petitioner with a waiver to deposit Rs.10,000/-, to the credit of the C.C. No.40 of 2016, within a period of seven days from today i.e., on 06.12.2023, he may be given opportunity of further cross examination of P.W.1, on the subsequent hearing date.

29.11.2023

Internet : Yes/No
Index : Yes/No
rkp
To

The Judicial Magistrate,
Fast Track Court No.I @ ML,
Coimbatore



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Dr.G.JAYACHANDRAN,J.

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