



CrI.O.P.(MD)No.7224 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.06.2023

CORAM :

THE HONOURABLE Mr. JUSTICE G.JLANGOVAN

CrI.O.P.(MD)No.7224 of 2023

Durai Muruga Basker ... Petitioner /Petitioner/ 1st Respondent

Vs.

Indumathi ... Respondent /Respondent/Complainant

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed in Cr.M.P.No.2200 of 2023, in D.V.C.No.2 of 2020, dated 29.03.2023, on the file of the Judicial Magistrate, Tenkasi and to recall the witness P.W.1 for cross-examination.

For Petitioner : Mr.R.Anand for Mr.M.Saravanan

For R1 : Mr.B.Nambiselvan
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to quash the Cr.M.P.No.2200 of 2023, in D.V.C.No.2 of 2020, dated 29.03.2023, on the file of the Judicial Magistrate, Tenkasi and to recall the witness P.W.1 for cross-examination.



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2. The above said application was filed by the petitioner to recall the witness - P.W.1 for cross examination. That petition was dismissed on the ground that even though sufficient opportunity was given to the petitioner, that was not properly used by him. In a cryptic order the trial Court dismissed the application without advertng to the facts of the present case.

3. Now, the learned counsel for the petitioner submitted that the petitioner presented this petition before this Court, on 13.04.2023 and it was numbered on 17.04.2023 and taken up for hearing on 19.04.2023 and at that time, it was informed to the Court that the above said case was disposed of by the trial Court. So, the report was called for from the trial Court, which was submitted stating that the above matter was disposed of on 17.04.2023. Even it is submitted that the petitioner has not taken proper care, but, however, only on 19.04.2023, the matter was heard by this Court. Whatever it may be, the grievance of the petitioner is that after dismissing the petition by the trial Court, exparte decree was passed. Later the respondent filed a petition for examination of the above said witness, which is also be pending.

4. In view of the above development, let the petitioner file petition to set aside the order of exparte order. If the



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application is filed by the petitioner, it may be considered, the case may be reopened by giving notice to the respondent. On restoring the above said Petition, let opportunity be given by the trial Court to cross examine P.W.1. The petitioner shall pay a sum of Rs.10,000/- to the respondent. On payment of Rs.10,000/- to the respondent, let P.W.1 be recalled and cross examine by the petitioner, without seeking adjournments. Let the process be completed on merits and dispose of the same within a period of three months thereafter.

5. With the above said direction, this Petition is allowed.

13.06.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
Ls



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G.ILANGO VAN, J.,

Ls

To

- 1.The Judicial Magistrate,
Tenkasi
- 2.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

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