



Crl.O.P.(MD) No.15241 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.15241 of 2023
and Crl.M.P.(MD).No.12075 of 2023

A.Vijayalakshmi

...Petitioner / Complainant

Vs.

1.SSS Steels

Represented by it's Proprietor,
Tmt.Heloise,
5A/98A, Galduvel Colony Mani,
Thoothukudi District.

2.D.Heloise

...Respondents / Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the Impugned order passed by the Learned Fast Track Court, Judicial Magistrate Level, Thoothukudi in C.R.M.P. No.3794 of 2023 order dated 06.07.2023 and set aside the same and further permit the petitioner to cross examine the DW-2 in the above case.

For Petitioner :Mr.A.Robinson

For Respondent :Mr.Y.Jagadeesh for R1 & R2



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ORDER

This Criminal Original petition has been filed to set aside the Impugned order passed by the Learned Fast Track Court, Judicial Magistrate Level, Thoothukudi in C.R.M.P. No.3794 of 2023 order dated 06.07.2023 and seeking permission to the petitioner to cross examine the DW-2 in the above case.

2.The grievance of the petitioner is that the petitioner is the complainant in C.C.No.2 of 2020 on the file of the learned Judicial Magistrate, Fast Track Court, Thoothukudi. During the trial process, due to non availability of some important documents with him, he was unable to cross examine the DW1 and DW2. Hence, after obtaining the documents, the petitioner filed the petition under Section 311 Cr.P.C. to recall DW1 and DW2. The trial Court has allowed the petition in respect of DW1, but dismissed the same in respect of DW2 on the ground that DW2 might have been transferred to some other place. DW2 made deposition before the trial Court, only based on the records available at the office of the DW2. Hence, non cross examination of DW2 will cause serious prejudice to the petitioner. Hence, this petition.



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3.The learned counsel for the respondent has no objection to allow this petition on payment of costs. In view of the submission made by him, this Court is inclined to grant one more opportunity to the petitioner, so that he can let out the real truth.

4.On that sole ground, the impugned order passed by the learned Judicial Magistrate, Fast Track Court, Thoothukudi, in Cr.M.P.No.3794 of 2023, dated 06.07.2023, in respect of rejection of petition regarding DW2, is hereby set aside and this criminal original petition is **allowed** with following stringent conditions.

1) The petitioner must deposit a sum of Rs.5,000/- (Rupees Five Thousand only) as cost to the witness namely DW2 to the credit of C.C.No.02 of 2020, before the trial Court, within a period of fifteen days from the date of receipt of a copy of this order.

2) On such deposit, the trial Court is directed to recall the witness DW2 for cross examination by fixing a particular date. On that date, the petitioner must cross examine the above said witness without fail. If any failure is noticed, then the further right to cross examine the witness will be forfeited.



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Consequently, connected miscellaneous petition is closed.

06.10.2023

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

TM

To

1.The Fast Track Court, Judicial Magistrate Level, Thoothukudi.



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G.ILANGO VAN. J.

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