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Crl.O.P.(MD)No.16075 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:14.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGO VAN**

Crl.O.P.(MD) No.16075 of 2023

K.Surlisamy

... Petitioner

Vs.

R.Gopalakrishnan

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records of pertaining to the order passed by the learned Judicial Magistrate Court, No.I, Dindigul in Crl.MP.No.9033 of 2023 in S.T.C. No.2649 of 2023, dated 05.06.2023 and set aside the same.

For Petitioner : Mr.S.Sarvagan Prabhu

For Respondent : No Appearance

ORDER

Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records of pertaining to the order passed by the learned Judicial Magistrate Court, No.I, Dindigul in Crl.MP.No.9033 of 2023 in S.T.C. No.2649 of 2023, dated 05.06.2023 and set aside the same.



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2. Even though P.W.1 was cross examined by the petitioner in full, the learned counsel for the petitioner would submit that during the course of cross examination, he put up specific questions with regard to some real estate transaction between the parties, that was discontinued due to some mistake on the part of the counsel on record for the petitioner. For the purpose of continuing the cross examination over transaction, the petitioner filed an application for recall of P.W.1. But that was dismissed by the order, dated 05.06.2023, stating that no proper reason assigned for recalling of P.W.1, during the course of enquiry before the concerned trial Court or at that time of filing that petition.

3. Even though the petitioner mentioned the particular factual aspects, considering the fact that he is facing charges under Section 138 of Negotiable Instrument Act, before the concerned Court, one more opportunity is given to the petitioner. Only on the sole ground, this petition is allowed to recall P.W.1 on payment of cost of Rs.5,000/-. Let the cost be paid to the above said witness within a week, either directly or to be deposited in the trial Court. On payment, the trial Court shall fix the dates for recall P.W.1 for further cross examination. The petitioner must cross examine the P.W.1 on that date, without fail. If any failure is noticed on the part of the petitioner, his further right will be forfeited



forever.

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5. With the above said conditions, the orders of dismissal in Crl.MP.No.9033 of 2023 in S.T.C. No.2649 of 2023, dated 05.06.2023 on the file of the learned Judicial Magistrate Court No.I, Dindigul, is set aside and this Criminal Original petition stands allowed.

14.12.2023

Index : Yes/No
Internet : Yes/No
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To

1.The learned Judicial Magistrate Court No.I, Dindigul.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN. J.

Indu

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