



CrI.O.P.(MD) No.17467 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

CrI.O.P.(MD)No.17467 of 2023
and CrI.M.P.(MD).No.13880 of 2023

Justin David Salamon Amalraj

...Petitioner/Accused

Vs.

Ganesan

...Respondent/Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records and set aside the docket order made in C.C.No.158 of 2020 on the file of the Fast Track Court (Magisterial Level), Karaikudi, dated 12.09.2023.

For Petitioner :Mr.D.Venkatesh

For Respondent :No Appearance

ORDER

This criminal original petition has been filed to set aside the docket order made in C.C.No.158 of 2020 on the file of the Fast Track Court (Magisterial Level), Karaikudi, dated 12.09.2023.



Crl.O.P.(MD) No.17467 of 2023

WEB COPY

2.The grievance of the petitioner is that he himself examined as DW1 before the trial Court on 12.05.2023. Later, it was posted for cross examination. Finally, it was posted on 23.06.2023 for cross examination on the side of the complainant. Later it could not be done. So, it was adjourned periodically. Because of the absence or failure on the part of the defence, cross examination of this petitioner was ordered to be closed on 03.07.2023. Later, he filed application seeking recall of this petitioner for cross examination that was also allowed. Later got adjourned on various dates. Finally on 12.09.2023, it was posted for cross examination. On that date, both this petitioner as well as the complainant remained absent. On that behind applications were filed. Application filed by the complainant was allowed, whereas, the application filed by this petitioner was dismissed. So the cross examination was ordered to closed. Chief examination of this petitioner was also scrapped. Challenging the above said order, this petition has been filed.

3.This Court is not in position to understand the proceedings that has been taken by the trial Court. On the date of cross examination, both sides remained absent. It ought to have adjourned the matter and directed the complainant to



Crl.O.P.(MD) No.17467 of 2023

WEB COPY

cross examine the petitioner. Without resorting such proceedings, they scrapped the chief examination, which is not legal. There is no question of scrapping chief examination. On the sole ground itself, this Court is inclined to set aside the docket order dated 12.09.2023 passed by the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Karaikudi, in C.C.No.158 of 2020.

4.Accordingly, the docket order dated 12.09.2023 passed by the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Karaikudi, in C.C.No. 158 of 2020, is hereby set aside. Both parties must appear before the trial Court on 22.12.2023 without fail. On that date, the complainant must cross examine the petitioner. The petitioner must present before the Court on that day. If any failure is noticed, then the judgment shall be pronounced by the trial Court on the basis of the records available. If the petitioner wants to examine further witnesses, he may be permitted by the trial Court in this regard, without being influenced by the observations made by this Court in this matter.



Crl.O.P.(MD) No.17467 of 2023

WEB COPY 5. With the above said directions, this criminal original petition stands disposed of. Consequently, connected miscellaneous petition is closed.

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

22.11.2023

TM

Note: Issue order copy on 27.11.2023.

To

1. The Judicial Magistrate, Fast Track Court (Magisterial Level), Karaikudi.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD) No.17467 of 2023

G.ILANGOVAN. J.

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Crl.O.P.(MD)No.17467 of 2023

22.11.2023