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CrI.O.P.No.253 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No.253 of 2024

1.M/s.Jara Infratech Ltd.
2.Mr.Jayachandran

... Petitioners

Vs.

M/s.Winner Constructions
Represented by its Sole Proprietor
N.Sivakumar

... Respondent

Prayer:

Petition filed under Section 482 of Cr.P.C., seeking to set aside the order passed in CrI.M.P.No.637 of 2023 in C.C.No.28 of 2018 dated 20.07.2023 by the learned Fast Track cum Judicial Magistrate, Mayiladuthurai and consequential to recall the witness P.W.1 in the above case.

For Petitioners : M/s.Ezhilcaroline
For Respondent : Mr.K.S.Elangovan

ORDER

This petition has been filed challenging the order passed by the Court below in CrI.M.P.No.637 of 2023 in C.C.No.28 of 2018 dated 20.07.2023, dismissing the application filed by the petitioner under



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Section 311 of Cr.P.C. to recall P.W.1 for cross examination.

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2. When the matter came up for hearing on 08.01.2024, this Court passed the following order:

"Notice to the respondent returnable by 30.01.2024. Private notice is also permitted. The learned counsel for the petitioner is also permitted to serve notice on the learned counsel appearing on behalf of the respondent before the Court below.

2. The petitioner was given a chance to cross examine the respondent twice earlier and they did not utilize the opportunity. Once again, an application was filed under Section 311 of Cr.PC to recall PW1 and the same has been dismissed by the Court below by an order dated 20.07.2023. The case is now at the stage of defence witness.

3. Considering the facts and circumstances of the case, this Court is inclined to give one opportunity to the petitioner to cross-examine PW1 subject to the condition that the petitioner deposits 20% of the Cheque amount under Section 143 A of the



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Negotiable Instruments Act on or before 29.01.2024 before the Court below. If this condition is satisfied, this Court will consider giving one opportunity to the petitioner to cross-examine PW1.

4. Post this case under the caption for orders on 30.01.2024."

3. When the matter was taken up for hearing today, a memo was filed by the learned counsel for the petitioner and it is seen that 20% of the compensation amount to the tune of Rs.1,10,228/- has been deposited before the Court below.

4. In view of the above, this Court is inclined to grant one last chance to the petitioner to cross examine the respondent.

5. The order passed by the Court below in Crl.M.P.No.637 of 2023 in C.C.No.28 of 2018 dated 20.07.2023 is hereby set aside. The Court below shall recall P.W.1 and he shall be cross examined on the same day of his appearance. If for any reason, the petitioner fails to cross examine P.W.1 on the day of his appearance, the petitioner will lose his right to recall P.W.1 in future.



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6.In the result, this criminal original petition is allowed and there shall be a direction to the Court below to complete the proceedings in C.C.No.28 of 2018, within a period of two months from the date of receipt of a copy of this order and file a compliance report.

30.01.2024

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

- 1.The Fast Track cum Judicial Magistrate,
Mayiladuthurai.
- 2.The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

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30.01.2024