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Crl.O.P.Nos.6981 & 6983 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.Nos.6981 & 6983 of 2024
& Crl.M.P.Nos.5100 & 5106 of 2024

1. Victory Vision Home Appliances Pvt Ltd.,
Rep. by its Managing Director,
Rajasekaran (aged 47 years),
Residing at No.6, Subhammal Road, Swaminathan Estate,
Vanagaram, Mettukuppam,
Chennai – 600 095.
2. Mr.Rajasekaran,
S/o.Thangaraj (aged 47 years),
Residing at No.6, Subhammal Road, Swaminathan Estate,
Vanagaram, Mettukuppam,
Chennai – 600 095.

... Petitioners/Accused
in both cases

/versus/

Durga Traders,
Rep. by its Proprietor,
KanaramChoudhary, (aged 49 years),
S/o.Mahing Ramji Choudhary,
No.374/2B, M.S.Nagar, Kurichipirivu,
Podhanur Road, Coimbatore – 641 023

... Respondent/Complainant
in both cases

Prayer in Crl.O.P.No.6981 of 2024: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to set aside the return docket order passed in un-numbered C.M.P in C.C.No.464 of 2019, dated 05.03.2024, before the Learned Fast Track Magistrate I, Coimbatore to reopen the accused side evidence.



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Prayer in Crl.O.P.No.6983 of 2024: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to set aside the return docket order passed in un-numbered C.M.P in C.C.No.464 of 2019, dated 05.03.2024, before the Learned Fast Track Magistrate I, Coimbatore to recall the 2nd petitioner/D.W.1 for cross examination.

For Petitioners : Ms.Menon
in both cases

For Respondent : Mr.S.T.Raja
in both cases

COMMON ORDER

These Criminal Original Petitions are filed to set aside the return docket order passed in un-numbered C.M.P in C.C.No.464 of 2019, dated 05.03.2024, before the Learned Fast Track Magistrate I, Coimbatore to recall the 2nd petitioner/D.W.1 for cross examination and to reopen the accused side evidence.

2. The petitioners/accused in private complaint initiated under Section 138 of N.I Act is before this Court.



3. Being aggrieved by the order passed by the trial Court eschewed

his evidence on the ground that he was not present for cross examination when the matter was adjourned for the said purpose. The request of the petitioner/accused to reopen and recall of D.W.1 for cross examination was dismissed. The chief examination of D.W.1 recorded on 28.12.2022 ordered to be eschewed.

4. The Learned Counsel appearing for the petitioners/accused states that for genuine reason, D.W.1 was not present on 13.02.2024. However, the trial Court had also eschewed the chief examination which was already recorded and proceeded further and adjourned the case for argument.

5. The Learned Counsel for the respondent/complainant submits that the private complaint initiated in the year 2019 been dragged under one pretext or another by the petitioners/accused herein and when the case was specifically posted for cross examination, without any valid reason, the accused abstained himself and therefore, the trial Court had no other go but to eschew his chief examination and proceeded further.



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6. The Learned Counsel appearing for the petitioners/accused states that the case is now posted on 23.04.2024 for arguments. On that day, the petitioners/accused will be present and submit himself for cross examination and then proceed further and he will not drag on the proceedings at any cause.

7. Recording his undertaking, the docket order passed by the trial Court returning the un-numbered C.M.P in C.C.No.464 of 2019 filed to recall D.W.1 for cross examination and to reopen accused side evidence are hereby set aside.

8. The Learned Counsel appearing for the petitioner/accused is directed to represent it before the trial Court and on such representation, the trial Court shall number it and allow the same for examination of D.W.1 on 23.04.2024 and shall reopen the accused side evidence. If the petitioner/D.W.1 fails to appear on that day, then the trial Court shall proceed further and complete the trial on or before 15.05.2024.



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9. With this observation, these *Criminal Original Petitions are disposed of*. Consequently, connected Miscellaneous Petitions are closed.

17.04.2024

Index : Yes/No

Neutral Citation : Yes/No

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Issue order copy today (17.04.2024)

Note: Registry is directed to return the original petition filed before this Court to the Learned Counsel for the petitioner for representation before the trial Court.

Copy to:-

1. The Learned Fast Track Magistrate I, Coimbatore.



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DR.G.JAYACHANDRAN,J.

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