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Crl.O.P.Nos.8893, 9032, 9033, 9035, 9030 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.08.2024

Coram:

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.O.P.Nos.8893, 9032, 9033, 9035 & 9030 of 2024
& Crl.M.P.Nos.6370, 6401, 6402, 6403 & 6400 of 2024

Crl.O.P.No.8893 of 2024 batch

Thiru.P.Elayaraja.

... Petitioner/Complainant

/versus/

Thiru.R.Shanmugam.

... Respondent/Accused

Prayer: Criminal Original Petition has been filed under Section 482 of the Criminal Procedure Code, to set aside the order dated 04.03.2024 passed by Judicial Magistrate, Fast Track Court, Attur in Crl.M.P.No.2 of 2024 in STC.No.22 of 2021 and pass orders.

For Petitioner : Mr.SP.Chockalingam

For Respondent : Mr.J.Prithivi

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COMMON ORDER

The petitions filed by the accused under Section 311 of Cr.P.C to recall the witness, allowed by the trial Court on condition that the petitioner/accused shall pay a sum of Rs.5000/- for each of the witness. Since, it was the third recall petition and filed to drag the proceedings, the complainant has filed the present instant Criminal Original Petitions to set aside the order passed by the Judicial Magistrate, Fast Track Court, Attur, Salem District.

2. The Learned Counsel appearing for the petitioners submits that after examination of witness as early as 03.09.2021, the accused filed recall petition on 06.10.2021, witnesses were recalled. On completion of trial, case was reserved for judgment on 21.04.2022 and thereafter, another application for examining the document under Section 45 of Evidence Act was filed, the matter was dragged for two years and then came to end. At this juncture, the 3rd petition to recall has been filed and allowed, though it was allowed on costs, it has no deterrent effect on the complainant because his intention is to drag on the case endlessly.

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3. The Learned Counsel appearing for the petitioner submits that in view of the interim stay granted by this Court, the petitioners were not able to pay the costs and they are ready to pay the costs and examine the witness on the date of their appearance and will not seek for any further adjournment. To allege the apprehension of the petitioners, it is suffice to direct the respondent herein to immediately pay the costs to the defacto complainant and on receipt of the costs, the petitioner shall be present before the trial Court on the next hearing date and subject himself for cross examination. If the respondent fail to cross examine the witness on the day on which the complainant present, the respondent shall lose the right to recall the witness. The trial Court shall proceed further and complete the trial preferably within a period of one month.

4. Recording the same, this Criminal Original Petitions are disposed of. Consequently, connected Miscellaneous Petitions are closed.

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Internet :Yes/No.

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Dr.G.JAYACHANDRAN, J.

bsm

To:-

1. The Judicial Magistrate, Fast Track Court, Attur.

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