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CrL.OP.No.12654 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrL.OP.No.12654 of 2024

K.Sengottain

... Petitioner

Vs.

M.Kumar (Kumar Silks)

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set aside the docket order dated 13.05.2024 in CrL.M.P.S.R.No.2852 of 2024 in C.C.No.980 of 2021 on the file of the Judicial Magistrate-III at Salem and give direction to the Judicial Magistrate-III, Salem to allow the recall petition filed under Section 311 of Cr.P.C and to mark 4 additional documents as exhibits to prove his partnership.

For Petitioner : Mr.B.Lenin

ORDER

The petitioner herein is the complainant in the proceedings initiated under Section 131 of Negotiable Instruments Act. When he was in the witness box, he filed an application under Section 311 of Cr.P.C to produce additional documents and the same was dismissed by the trial



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Court by a docket order returned by stating that now the case is at the stage of cross-examination of P.W.1, how the petition is maintainable.

Being aggrieved, the petitioner is before this Court stating that the trial Court has deprived the complainant to put forth his case by not entertaining the application filed under Section 311 of Cr.P.C.

2. According to the learned counsel appearing for the petitioner, the document sought to be produced relates to the affairs of the partnership concern, in which the complainant is a partner. Since the accused has questioned the status in the firm and plead that the complainant was only a worker, these documents are very much necessary.

3. The learned counsel for the petitioner further submits that after returning the petition assigning untenable reasons, the trial Court has closed the chief examination of P.W.1 and adjourned the matter for cross examination of the witness.

4. This Court on perusing the case status and the endorsement made by the trial Court in the docket of the petition filed under Section 311 of Cr.P.C holds that the trial Court ought not to have returned the



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petition for the reasons stated and it ought to have entertained the petition filed under Section 311 of Cr.P.C and ought to have passed a speaking order. Having failed, the Criminal Original Petition is allowed.

5. The petitioner herein is directed to re-present the petition under Section 311 of Cr.P.C before the trial Court **within a period of four days from today**. On such re-presentation, the trial Court shall entertain the petition and pass order on merits.

01.07.2024

Vv

To

- 1.The Judicial Magistrate-III,
Salem
2. The Public Prosecutor,
High Court of Madras, Chennai.

Dr.G.JAYACHANDRAN,J.



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