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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.21924 of 2023
and Crl.MP.No.15231 of 2023

C.Venkatachalam Morrthy

...Petitioner

.Vs.

Aruchamy

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the order dated 13.3.2023 in Crl.MP.No.4932 of 2023 in STC No.3058 of 2017, passed by the learned Judicial Magistrate, Palladam, Tiruppur.

For Petitioner : Mr.Dharani Subramanian

For Respondent : Mr. K.Govi Ganesan

ORDER

This petition has been filed challenging the order passed in Crl.MP.No.4932 of 2022, dated 13.3.2023, dismissing the application filed under Section 311 Cr.PC., to recall PW.1 for further cross examination.

2.When the matter came up for hearing on 27.9.2023, this Court passed the following order:



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Notice to the respondent returnable by 01.11.2023. Private notice is also permitted.

2. The petitioner is also permitted to serve notice on the learned counsel appearing for the respondent before the Court below.

3. Considering the facts and circumstances of the case, there shall be a direction to the petitioner to deposit 20% of the cheque amount on or before 31.10.2023. Subject to fulfilling this condition, this Court will consider giving one opportunity to the petitioner to further cross-examine PW-1.

Post this case on 01.11.2023. In the mean time, the Court below shall keep the proceedings in STC No.3058 of 2017 in abeyance.

3.Pursuant to the above order, a memo has been filed before this Court and it is seen that 20% cheque amount has been deposited before the Court below on 30.10.2023. The receipt is also available to substantiate the same.

4.Heard Mr.Dharani Subramanian, learned counsel for the petitioner and Mr. K.Govi Ganesan, learned counsel for the respondent.

5.Taking into consideration the facts and circumstances of the case and in order to afford one last opportunity to the petitioner to recall PW.1 for further cross examination, this Court is inclined to interfere with the order passed by the Court below and accordingly, the order passed by the Court below in CrI.MP.No.4932 of 2022, dated 13.3.2023, is hereby set aside.



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6.It is brought to the notice of this Court that the case has been posted for hearing before the Court below on 03.6.2024. Probably the Court below had given such a long adjournment considering the pendency of this petition. The case has been pending from the year 2017 onwards. Both the parties are also before this Court. Therefore, this Court is inclined to prepone the hearing. There shall be a direction to the Court below to prepone the hearing to **11.3.2024**. PW.1 shall be present before the Court below on that day and he shall be cross examined on the same day by the petitioner. If for any reason, the petitioner fails to cross examine PW.1 on the date of his appearance, the petitioner will lose his right to recall PW.1 in future.

7.In the result, this criminal original petition is allowed with a direction to complete the proceedings in STC No.3058 of 2017, on the file of the Judicial Magistrate, Palladam, Tiruppur, within a period of three months from the date of receipt of copy of the order. Consequently, connected miscellaneous petition is closed.

20.02.2024

Speaking Order/Non-Speaking Order

Index: Yes/No

Internet: Yes/No

kp

To

Judicial Magistrate, Palladam,

Tiruppur.



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N.ANAND VENKATESH.J.,

kp

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