



Crl.O.P.No.27798 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18.11.2024

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.27798 of 2024

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K.Chandrasekaran

.. Petitioner

Vs.

R.C.Murugan

.. Respondent

Criminal Original Petition filed under Section 428 Cr.P.C./Section 528 of BNSS to set aside the returned docket order, dated 10.07.2024 in Crl.M.P.Sr.No.4080 of 2024 and allow the recall of P.W.1.

For petitioner : Mr.J.Franklin

For respondent: Mr.M.Arun

ORDER

Criminal Original Petition filed to set aside the returned docket order, dated 10.07.2024 in Crl.M.P.Sr.No.4080 of 2024 and allow the recall of P.W.1.

2. It is seen that already, the petitioner has invoked Section 311 Cr.P.C. in S.T.CNo.533 of 2018 and even after the petition filed under Section 311 Cr.P.C. was allowed, the petitioner did not avail the opportunity and thereafter, he filed

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the petition second time invoking Section 311 Cr.P.C. for recalling P.W.1 for further cross-examination. Therefore, the Magistrate has passed the impugned order stating that invoking Section 311 Cr.P.C., and filing petition, is not maintainable.

3. It is further seen that the S.T.C. is pending from 2018. P.W.1 was examined in chief and he was partly cross-examined and the case was posted for some other day for continuation of cross-examination and the petitioner could not cross-examine the witness and therefore, the evidence was closed. However, since the petitioner has invoked Section 311 Cr.P.C. for the second time, in the interest of justice and in order to have speedy disposal, this Court is inclined to pass the conditional order. Accordingly, the petitioner is directed to deposit 20% of the cheque-amount before the trial Court on or before 29.11.2024 and on deposit of that amount, the trial Court is directed to permit the petitioner to cross-examine P.W.1 by sending the summons to P.W.1 for further cross-examination. P.W.1 is directed to appear before the trial Court on 05.12.2024 and on his appearance, the petitioner is directed to complete the cross-examination on 05.12.2024 itself. Failing to deposit 20% of the cheque amount on or before 29.11.2024, the petitioner will lose his opportunity of cross-examination.

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4. On other aspects, the impugned docket order passed by the trial Court stands good.

5. With the above observations, this Crl.O.P. is disposed of.

18.11.2024

CS

Office to note: Issue order copy by 22.11.2024

To

Judicial Magistrate-III, Salem.

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P.VELMURUGAN, J

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