



CrI.O.P.No.28783 of 224

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2024

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

CrI.O.P.No.28783 of 2024

S.N.Rajarajan

... Petitioner

Vs.

D.Venkatesh Deepak
Respondent

...

PRAYER: Criminal Original Petition filed under Section 528 of B.N.S.S., to set aside the dismissal order passed by the learned Metropolitan Magistrate, FTC-II, Egmore, Allikulam, Chennai in CrI.M.P.No.64663 of 2024 in S.T.C.No.13169 of 2023 dated 28.10.2024.

For Petitioner : Mr.G.Ashokkumar

For Respondent : M/s.Pushpitha K.C

ORDER

This Criminal Original Petition has been filed to set aside the dismissal order dated 28.10.2024 passed in CrI.M.P.No.64663 of 2024 in



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S.T.C.No.13169 of 2023 on the file of the learned Metropolitan Magistrate, FTC-II, Egmore, Allikulam, Chennai.

2. Heard the learned counsel appearing on behalf the petitioner and respondent and perused the materials available on record.

3. Learned counsel for the petitioner submitted that since the connected case is pending, the petitioner could not cross examine P.W.1 before the trial court. Further he submitted that the petitioner is ready to obey the condition that may be imposed by this Court.

4. The petitioner is the accused in S.T.C.No.13169 of 2024 on the file of the Metropolitan Magistrate, Fast Track Court-II, Egmore at Allikulam, Chennai. In the abovesaid case, the respondent herein was examined as P.W.1 and chief examination of P.W.1 was completed on 19.03.2024. Thereafter, since the petitioner has not cross examined the witness P.W.1, the evidence was closed on 14.05.2024. Subsequently, the petitioner filed a petition under Section 311 Cr.P.C., in Crl.M.P.No.48479 of 2024 and the same was allowed on 28.08.2024.



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Thereafter, though sufficient opportunity was given to the petitioner to cross examine P.W.1, he has not cross-examined the witness. Hence the trial court closed the evidence and posted the matter for questioning under section 313 Cr.P.C., Thereafter, the petitioner filed another petition in Crl.M.P.No.64663 of 2024 to recall the complainant side witness and to permit him to cross examine the complainant side witness. The learned Magistrate dismissed the petition vide impugned order dated 28.10.2024. Challenging the same, the petitioner has filed the above criminal original petition.

5. Despite sufficient opportunities were given to the petitioner by the learned Magistrate to cross examine the witness, the petitioner did not avail the opportunities given to him. However, in the interest of justice, one more opportunity is given to the petitioner to cross-examine the witness P.W.1. Hence, the impugned order is set aside subject to condition that the petitioner shall deposit 25% of the cheque amount to the credit of S.T.C.No.13169 of 2023 on the file of the learned Metropolitan Magistrate, FTC-II, Egmore, Allikulam, Chennai, on or



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before 03.12.2024 and on such deposit, the learned Metropolitan Magistrate is directed to permit the petitioner to cross-examine P.W.1 and thereafter proceed further in the manner known to law and dispose the case in S.T.C.No.13169 of 2023 in accordance with law preferably on or before 20.12.2024.

6. With the abovesaid direction, the Criminal Original Petition is disposed of.

18.11.2024

mfa

Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

Note: Issue Order Copy on 19.11.2024

Copy to:

The Metropolitan Magistrate,
FTC-II, Egmore,
Allikulam, Chennai



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P.VELMURUGAN, J.

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