

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.08.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.Nos.19481 and 19482 of 2015

N.Udayappan

...Petitioner in both Crl.OPs

Vs

G.Muthukumar

...Respondent in both Crl.OPs

Prayer in Crl.OP.No.19481 of 2015 : Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the dismissal order made in CMP.No.120 of 2015 in STC.No.21 of 2014 dated 01.07.2015 on the file of the Fast Track Court - Magisterial Level at Poonamallee.

Prayer in Crl.OP.No.19482 of 2015 : Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the dismissal order made in CMP.No.119 of 2015 in STC.No.22 of 2014 dated 01.07.2015 on the file of the Fast Track Court - Magisterial Level at Poonamallee.

For Petitioner : Mr.Padmanabhan, Senior Counsel
in both Crl.OPs for Mr.K.J.Nithianandam

COMMON ORDER

Crl.OP.No.19481 of 2015 has been filed to set aside the order dated 01.07.2015 passed by the learned Fast Track Court - Magisterial Level Judge, Poonamallee in CMP.No.120 of 2015 in STC.No.21 of 2014.

Crl.OP.No.19482 of 2015 has been filed to set aside the order dated 01.07.2015 passed by the learned Fast Track Court - Magisterial Level Judge, Poonamallee in CMP.No.119 of 2015 in STC.No.22 of 2014.

2. Heard the learned counsel for the petitioner and perused the materials placed on record.

3. The petitioner is facing two prosecution for offences under Section 138 of Negotiable Instruments Act in STC.No.21 of 2014 and 22 of 2014 on a complaint lodged by the respondent herein before the learned Fast Track Court - Magisterial Level Judge, Poonamalle. When the complainant was examined as PW1, the petitioner herein filed an application under Section 91 Cr.P.C calling upon the complainant to produce certain documents and records from their office in order to discharge the burden under Section 139 of Negotiable Instruments Act to establish that the impugned cheques were given only as security.

4. On a perusal of the records, it is seen that the complainant filed counter in Section 91 Cr.P.C application on 01.07.2015 and on the very same day, the Trial Court has passed the impugned order which is bereft of reasonings. It is the grievance of the petitioner/accused that a full hearing was not given by the Magistrate before passing the order on 01.07.2015.

5. On a reading of the order, this Court finds that the learned Magistrate has not given any cogent reasons for dismissing the plea. In the opinion of this Court, it will serve the interest of justice, if the orders are set aside and the matter is remanded to the Trial Court for fresh disposal in accordance with law. Accordingly, the orders dated 01.07.2015 in CMP.No.120 of 2015 and CMP.No.119 of 2015 are set aside and the matter is remanded to the Trial Court to be heard afresh. The learned Magistrate shall complete the hearing within four weeks, from the date of receipt of a copy of this order.

With the above direction, this petition is allowed.

Sd/-

Assistant Registrar (CS-IV)

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Sub Assistant Registrar

gya

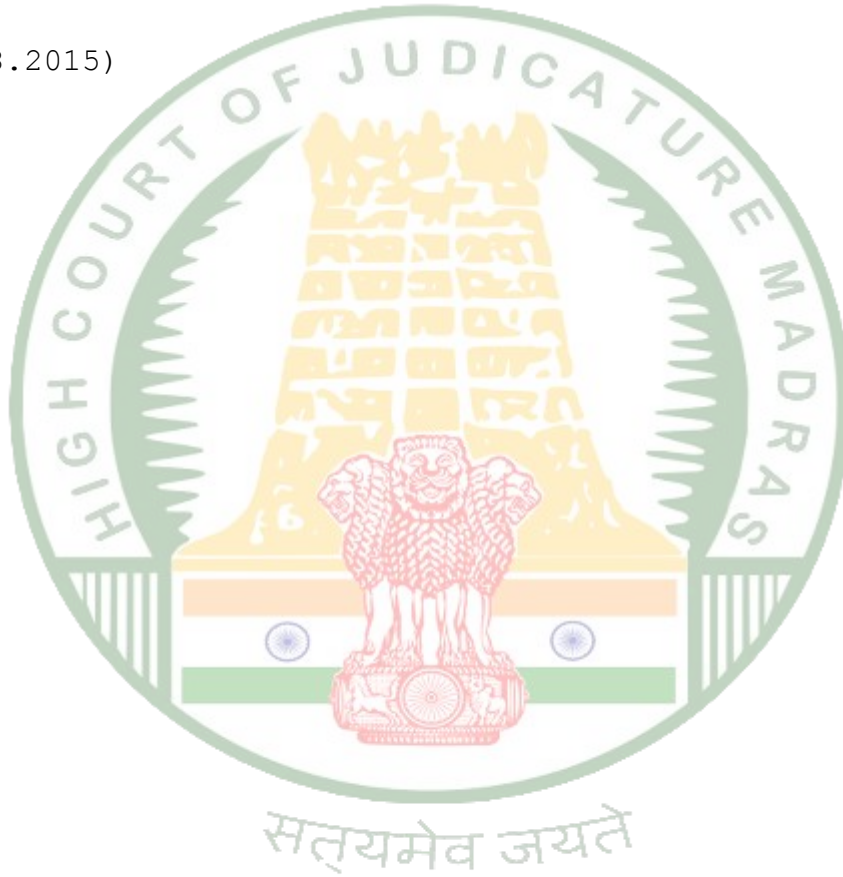
To

Fast Track Court - Magisterial Level Judge,
Poonamalle.

1 CC to Mr.K.J.Nithianandam, Advocate SR.No. 39577

CRL.OP.Nos.19481 and 19482 of 2015

KGK (CO)
PSI (13.08.2015)



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