



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2016

CORAM

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

Cr1.O.P. (MD) No.22379 of 2016

and

Cr1.M.P. (MD) No.11663 of 2016

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Prince Leninten

.. Petitioner /Petitioner

-Vs-

N.Ponnaiyan

... Respondent/Respondent

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to call for the records and set aside the order passed by the Judicial Magistrate Court No.I, Kuzhithurai in Cr.M.P.No.7445 of 2016, dated 29.09.2016.

For Petitioner

: Mr.H.Velavadhas

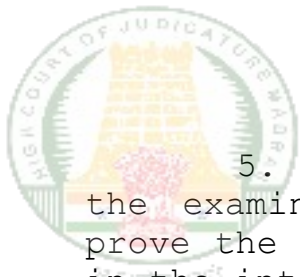
ORDER

This Criminal Original Petition is filed to set aside the order passed by the learned Judicial Magistrate No.I, Kuzhithurai in Cr.M.P.No.7445 of 2016 in S.T.C.No.196 of 2014.

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

3. The respondent filed a private complaint alleging that the cheque issued by the accused in discharge of his liability was dishonoured for the reasons of insufficient fund and thereby he has committed an offence under Section 138 of Negotiable Instruments Act.

4. The complainant's side evidence was closed on 31.05.2015 and thereafter the case was adjourned for 22 hearings for the defence side witness. After closure of the defence evidence, the petitioner/accused filed the application in Cr.M.P.No.7445 of 2016 for examination of the Bank Manager, Indian Overseas Bank, Arumanai Branch and one David Sugiraj to prove that the accused had already repaid the amount borrowed from the complainant. The learned Judicial Magistrate No.I, Kuzhithurai has allowed this petition for permitting the petitioner to examine David Sugiraj and dismissed the application in respect of examination of the Bank Manager. Aggrieved by that order, the present petition is filed.



5. The learned Counsel for the petitioner would submit that the examination of the Bank Manager is very much essential to prove the discharge of the liability of the accused and therefore, in the interest of justice, the order is liable to be set aside.

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6. I do not agree with the contention of the learned Counsel for the petitioner because the complainant himself has admitted that he received Rupees Two Lakhs only in the year 2010, but this transaction had taken place in the year 2013. Hence, I do not find any merit in this case. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub-Assistant Registrar

To:

The Judicial Magistrate Court No.I,
Kuzhithurai.

+1cc to Mr.H.Velavadhas, Advocate Sr.No.72814

Crl.O.P.(MD) No.22379 of 2016
25.11.2016

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JAM/DB:14.12.2016:2P/3C