



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 19.12.2017

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.(MD)No.5803 of 2013

and

M.P.(MD).Nos.1 and 2 of 2013

Francis Kumar

.. Petitioner/Petitioner/Sole
Accused

-Vs-

D.Victor Samraj Duraisingh

.. Respondent/Respondent/
Complainant

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the entire records in pertaining to the order passed by the learned Judicial Magistrate (Fast Track Court), Thoothukudi, Thoothukudi District in Cr.M.P.No.1494 of 2013 in C.C.No.546 of 2012 vide his order, dated 12.03.2013 and set aside the same and consequently direct the above said learned Judicial Magistrate to recall the witnesses namely, PW1, DW1 and DW2 for the purpose of causing further cross-examination.

For Petitioner : Mr.R.Anand

For Respondent : Mr.R.Vijayakumar

O R D E R

The petitioners filed this petition under Section 482 of Cr.P.C, 1973, to quash the order passed in Cr.M.P.No.1494 of 2013 in C.C.No.546 of 2012 vide his order, dated 12.03.2013 by the learned Judicial Magistrate (Fast Track Court), Thoothukudi, Thoothukudi District and consequently direct the above said learned Judicial Magistrate to recall the witnesses namely, P.W.1, D.W.1 and D.W.2 for the purpose of causing further cross-examination.

2. The brief facts of the case are as follows:

The petitioner borrowed a sum of Rs.3,50,000/- on 08.08.2011 from the respondent for which towards repayment, the petitioner has issued a cheque and when the said cheque was presented for collection on 17.12.2011, the same was returned with an endorsement "insufficient funds". Thereafter, the respondent issued a legal notice to the petitioner on 21.12.2011. After receipt of the same, the petitioner did not come forward to repay the said amount. Hence, the respondent filed a complaint under Section 138 of Negotiable Instruments Act, 1881, before the learned Judicial Magistrate (Fast Track Court), Thoothukudi, Thoothukudi District. After closing of the entire evidence including the defence side evidence, the petitioner filed a petition under Section 311 Cr.P.C. to recall the witnesses P.W.1, D.W.1 and D.W.2 and the same was dismissed, against which the present criminal original petition has been filed.



3. I have heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and perused the materials available on record.

4. On perusal of the complainant's evidence and defence evidence, it clearly shows that only with the intention to drag on the proceedings, the petition under Section 311 Cr.P.C. has been filed before the Court below. Considering the pendency of this petition before this Court for the past four years, I do not find any irregularity or illegality to interfere with the order passed by the Court below.

5. Accordingly, this Court directs the learned Judicial Magistrate (Fast Track Court), Thoothukudi, Thoothukudi District, to complete the trial in C.C.No.546 of 2012 within a period of three months from the date of receipt of a copy of this order, if the trial is not yet completed.

6. With the above direction, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(CS-III)

/True copy/

Sub Assistant Registrar

To

The Judicial Magistrate (Fast Track Court),
Thoothukudi,
Thoothukudi District.

+1cc to Mr.R.VIJAYAKUMAR,Advocate,SR.93880

CrI.O.P. (MD)No.5803 of 2013
19.12.2017

PJL

KK/RSK/SAR 4/12.02.2018/ 2P- 3C/