



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2018

CORAM

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

**Cr1 OP(MD)Nos.23735 and 23736 of 2016
and
Cr1MP(MD)Nos.12540 and 12541 of 2016**

S.R.Janarthanan

... Petitioner
in Both Petitions

Vs.

F.Sebastian

...Respondent
in Both Petitions

COMMON PRAYER:- Petitions filed under Section 482 of Criminal Procedure Code, to call for the records and set side the order dated 14.10.2016 passed in CrMPNOs.3080 and 3848 of 216 respectively in CCNo.201 of 2014 on the file of the learned Judicial Magistrate No.I, Tiruchirappalli, Tiruchirappalli District.

For Petitioner	: Mr.Thiruvadi Kumar
For Respondent	:Mr.T.Lenin Kumar

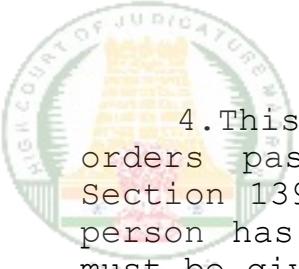
in both Petitions

COMMON ORDER

These petitions have been filed challenging the order of the Court below passed under Sections 91 and 311 of CrPC to recall PW.1.

2.It is seen from records that the respondent wanted to establish his defence by summoning certain documents from Thiru Kumara finance in which the petitioner was a partner from the 2009 onwards. It is the further case of the petitioner that he borrowed a sum of Rs. 20,000/- from the said Thiru Kumara Finance and gave a promissory note and two cheques as security and these cheques have been misused in this case.

3.The Court below on appreciation of entire facts came to the conclusion that the respondent should be permitted to summon the documents sought for by him, in order to establish his defence and for that purpose the Court below allowed the recall petition filed under Section 311 of CrPC.



4.This Court does not find any illegality or infirmity in the orders passed by the Court below. Since the presumption under Section 139 of NI Act, is cast upon the accused person, the accused person has to rebut the same. For that purpose the accused person must be given sufficient opportunity to substantiate his defence.

5.The criminal original petition is dismissed and a direction is given to the Judicial Magistrate-I, Triurchirappalli to dispose of the CC No.201 of 2014 within a period of three months from the date of receipt of a copy of this order and report compliance to the Registry, immediately after completion of the proceedings. Consequently,CrlMP(MD)Nos.12450 and 12541 of 2016 are closed.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub Assistant Registrar(CS-III)

dsk

To

1.The Judicial Magistrate No.I,
Tiruchirappalli, Tiruchirappalli District.

2.The Chief Judicial Magistrate,
Tiruchirappalli.

+1cc to Mr.A.Thiruvadikumar, Advocate in SR No.83980

+1cc to Mr.T.Lenin Kumar, Advocate in SR No.83908

**Crl OP(MD)Nos.23735
and 23736 of 2016**

NM/SKN/SAR 3/01.10.18/2P/5C