IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.Nos.7559 & 7389 of 2018

and CRL.M.P.Nos.3923 & 3835 of 2018

Arumugam ...Petitioner
in both Crl.O.Ps

vs.

S.Dhandapani ...Respondent
in both Crl.O.Ps

PRAYER : Criminal Original Petitions filed under Section 482 of Criminal Procedure Code, to call for the records relating to the impugned order dated 17.01.2018 passed by the learned Fast Track Judicial Magistrate No.II, Coimbatore and set aside the same and consequently allow the applications filed by the petitioner herein in C.M.P.No.8040 of 2017 & C.M.P.No.8041 of 2017 respectively in C.C.No.456 of 2017 on the file of the Fast Track Judicial Magistrate No.II, Coimbatore.

For Petitioner : Mr.A.Saranraj
in both Crl.O.Ps

O R D E R

These petitions have been filed challenging the order passed by the Court below dismissing the applications filed by the petitioner to reopen and recall PW1 for cross-examination.

2. The petitioner is facing trial before the Court below for an offence under Section 138 of the Negotiable Instrument Act. It is seen from the records that the case was taken cognizance in the year 2013 by the learned Judicial Magistrate No.II, Coimbatore and the Chief-examination of PW1 was completed on 20.10.2015. Thereafter, the case was repeatedly adjourned and

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since the petitioner did not cross-examine PW1, the evidence of PW1 was closed on 18.02.2016. Thereafter, the complainant examined PW2 and even he was not cross-examined and his evidence was also closed.

3. The case came to be transferred to the file of the Fast Track Court No.2, Coimbatore in the year 2017. The Court below questioned the petitioner under Section 313 of Cr.P.C on 06.07.2017. At that point of time the petitioner admitted that the total liability is only Rs.3,75,000/- and not 4,50,000/- as claimed by the complainant. The case was adjourned several times 'for reporting settlement' and the settlement never happened. Ultimately the case was at the stage of final arguments. The present petition came to be filed by the petitioner to reopen and recall PW1 for cross-examination. Both the petitions were dismissed by the Court below.

3. Heard, the learned counsel for the petitioner.

4. This Court does not find any illegality or infirmity in the order passed by the Court below. However in order to afford one last opportunity to the petitioner, this Court interfers with the order passed by the Court below. The order passed in C.M.P.No.8040 of 2017 & C.M.P.No.8041 of 2017 dated 17.01.2018 is hereby set aside .

5. These Criminal Original Petitions are disposed of with the following directions:

a) The petitioner is directed to deposit a sum of Rs.3,75,000/- on the file of the FTC, No.II, Coimbatore in C.C.No.456 of 2017 within a period of four weeks from the date of receipt of copy of this order.

b) On such deposit, the Court below is directed to fix a date for the appearance of PW1 and on the date of his appearance, the petitioner shall cross-examine PW1 and complete the cross-examination on the same day.

c) The Court below is directed to complete the proceedings in C.C.No.456 of 2017 within a period of three months from the date of receipt of copy of this order.

d) If in case the petitioner fails to deposit the amount within the time stipulated by this Court, the order passed by the Court below in C.M.P.No.8040 of 2017 &

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C.M.P.No.8041 of 2017 shall revive automatically and the Court below can proceed further to dispose of the case in accordance with law.

Consequently, connected miscellaneous petitions are closed.

sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

ssr

To

1. The Fast Track Judicial Magistrate No.II,
   Coimbatore.

2. -do- Through The Chief Judicial Magistrate
   Coimbatore.

3. The Public Prosecutor,
   High Court, Madras.

+1cc to Mr.A.Saranraj, Advocate, sr. no.58741
+1cc to Mr.S.Ramesh kumar, sr.no.57755

CRL.O.P.Nos.7599 & 7389 of 2018
and CRL.M.P.Nos.3923 & 3835 of 2018

RSK(CO)
RMP(12/07/2019)

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