



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 03.10.2019
CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD) .Nos.12149 and 12150 of 2019
and
Crl.M.P(MD)No.7631 of 2019

Crl.O.P. (MD) .No.12149 of 2019:

S.Rajamani ... Petitioner (in both petitions)
Vs.

Alex ... Respondent (in both petitions)

PRAYER in Crl.O.P. (MD) .No.12149 of 2019: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to set aside the order made in Crl.M.P.No.1514 of 2019 in S.T.C.No.66 of 2016 on the file of Judicial Magistrate/Fast Track Court (Magistrate Level), Nagercoil, dated 07.08.2019, and allow the petition seeking recall the witness, namely, P.W.2.

PRAYER in Crl.O.P. (MD) .No.12150 of 2019: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to set aside the order made in Crl.M.P.No.1513 of 2019 in S.T.C.No.66 of 2016 on the file of Judicial Magistrate/Fast Track Court (Magistrate Level), Nagercoil, dated 07.08.2019, and allow the petition seeking recall the witness, namely, P.W.2.

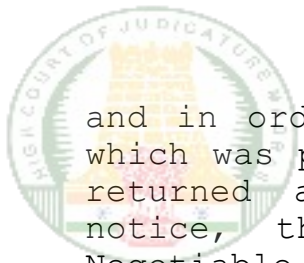
(in both petitions)

For Petitioner : Mr.T.Selvakumaran
For Respondent : No Appearance

ORDER

These Criminal Original Petitions have been filed challenging the order passed in Crl.M.P.No.1514 and 1513 of 2019, respectively in S.T.C.No.66 of 2016, on the file of the learned Judicial Magistrate/Fast Track Court (Magistrate Level), Nagercoil, dated 07.08.2019, and praying to allow the petition to recall the witness, namely, P.W.2.

2.The learned counsel for the petitioner would submit that the petitioner herein filed a complaint for the offence under Section 138 of Negotiable Instrument Act, against the respondent, alleging that the respondent borrowed a sum of Rs.5,000/- from the petitioner



and in order to return the same, the respondent issued a cheque, which was presented for collection before the Bank and the same was returned as 'insufficient funds'. After issuance of statutory notice, the proceedings were initiated under Section 138 of Negotiable Instruments Act. He further submitted that the alleged cheque was issued in the year 2013, the petitioner wanted to examine the P.W.2, who is none other than Bank Manager of Indian Overseas Bank. On 17.07.2018, the P.W.2., was examined in chief, but, the petitioner failed to cross examine P.W.2 on the date of chief examination. Hence, the petitions were filed to reopen the case and to recall the evidence of P.W.2.

4.Heard the learned counsel for the petitioner.

5.Even though notice was issued to the respondent, none appeared on behalf of the respondent.

6.Considering the facts and circumstances of the case, the petitioner may be given one more opportunity to cross examine the P.W.2.

7.Accordingly, the orders passed in Crl.M.P.No.1514 and 1513 of 2019, are set aside and these petitions are allowed. The petitioner is directed to cross examine P.W.2 on the date fixed by the trial Court on payment of necessary charges. If the petitioner fails to cross examine the P.W.2 on the date fixed by the trial Court, the trial Court is directed to proceed with the trial in accordance with law. The process will be completed within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the trial Court is directed to complete the proceedings within a period of four weeks.

8.In view of the above, these Criminal Original Petitions are disposed of. Consequently, connected miscellaneous petitions is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Judicial Magistrate/Fast Track Court
(Magistrate Level), Nagercoil.

2. The Chief Judicial Magistrate,
Nagercoil

<https://hcservices.karnataka.gov.in/hcservices/>



+1 CC to Mr.T.SELVAKUMARAN, Advocate (SR-91229[F] dated
04/10/2019)

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and

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