

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.Nos.3955 & 3957 of 2020  
and  
Crl.M.P.Nos.2292 & 2294 of 2020

Nataraj,  
S/o.Chandiran,  
Kizhsengampatti Village,  
Thathampatti Post,  
Pochampalli Taluk,  
Krishnagiri District. ... Petitioner in both Crl.O.Ps

Vs.

Sangeetha,  
W/o.Thirumal,  
Tholampathi Village,  
Ananthur Taluk,  
Uthangarai Taluk,  
Krishnagiri Disgtrict. ... Respondent in both Crl.O.Ps

PRAYER in Crl.O.P.No.3955 of 2020: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to set aside the order passed by the learned District Munsif cum Judicial Magistrate, Pochampalli, Krishnagiri District in Crl.M.P.No.4487 of 2019 in S.T.C.No.606 of 2015 dated 13.12.2019.

PRAYER in Crl.O.P.No.3957 of 2020: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to set aside the order passed by the learned District Munsif cum Judicial Magistrate, Pochampalli, Krishnagiri District in Crl.M.P.No.4488 of 2019 in S.T.C.No.606 of 2015 dated 13.12.2019.

For Petitioner : Mr.E.Kannadasan  
(in both Crl.O.Ps)

For Respondent : Mr.Kingston Jerold  
(in both Crl.O.Ps)

WEB COPY

## COMMON ORDER

These petitions have been filed, to challenge the order dated 13.12.2019, passed in CrI.M.P.Nos.4487 & 4488 of 2019 in S.T.C.No.606 of 2015, thereby rejecting the applications filed by the petitioner under Sections 311 & 91 of Cr.P.C., respectively.

2. The learned counsel for the petitioner would submit that, the petitioner is the complainant in S.T.C.No.606 of 2015. While examination of D.W.2, some of the documents were marked through D.W.2 and those were objected and as such the trial Court did not mark the same. Those documents are pertaining to the manager of Ananthur Pallavan Grama Bank-D.W.2 and as such those documents are vital to the case of the defacto complainant and as such he filed application under Section 91 of Cr.P.C for production of those documents. The learned counsel for the petitioner was also not able to cross examine with regard to those documents while examining D.W.2. Therefore he filed petition under Section 311 of Cr.P.C to recall D.W.2 for further cross examination.

3. The learned counsel for the respondent would submit that the documents which were intended to mark through D.W.2 were objected and the trial Court rightly rejecting the documents. Again the petitioner filed application under Section 91 of Cr.P.C to produce the very same documents to mark through D.W.2. He further submitted that D.W.2 already extensively cross examined and only to fill up the lacunae, now the petition has been filed by the defacto complainant under Section 311 of Cr.P.C. for further cross examination.

4. Heard Mr.E.Kannadasan, learned counsel appearing for the petitioner and Mr.Kingston Jerold, learned counsel appearing for the respondent.

5. The petitioner is the complainant and the respondent is an accused in S.T.C.No.606 of 2015 filed for the offences punishable under Section 138 of Negotiable Instruments Act, 1881. Admittedly, the documents which are intended to mark through D.W.2 already objected by the respondent and the petitioner was not permitted to mark through D.W.2. Though, D.W.2 was partly cross examined, this Court is of the opinion that the petitioner may be given one more opportunity for cross examination of D.W.2.

6. In view of the above discussion, the order passed in CrI.M.P.No.4487 of 2019 is set aside and the petitioner is permitted to cross examine D.W.2 and on payment of necessary

charges on the date fixed by the trial Court. If the petitioner fails to cross examine D.W.2, on the date fixed by the trial Court, the trial Court is directed to proceed with the trial in accordance with law. However, this Court finds no illegality or infirmity in the order passed by the trial Court in Crl.M.P.No.4488 of 2019.

7. With the above observations, the Criminal Original Petition in Crl.O.P.No.3955 of 2020 is allowed and in Crl.O.P.No.3957 of 2020 is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar

//True Copy//

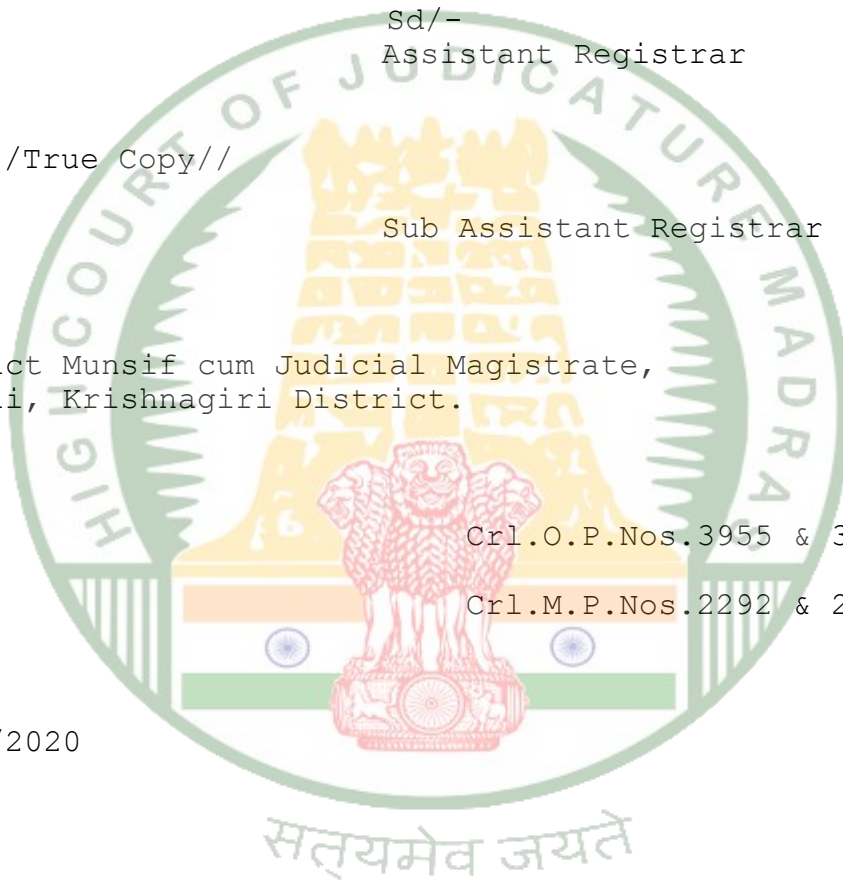
Sub Assistant Registrar

To

The District Munsif cum Judicial Magistrate,  
Pochampalli, Krishnagiri District.

Crl.O.P.Nos.3955 & 3957 of 2020  
and  
Crl.M.P.Nos.2292 & 2294 of 2020

br[co]  
srg 24/09/2020



WEB COPY