

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.O.P.No.10726 of 2019
and Crl.M.P.No.5501 of 2019

M/s.Sri Jai Maruthi Transport
Rep. by its Proprietor,
Mr.Sethuraman
No.196, Sundaram Pillai Nagar,
First Main Road, Tondiarpet,
Chennai - 600 081.

... Petitioner

Vs

S.M.Kavi Bharathi,
S/o.S.Munusamy

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in C.C.No.944 of 2017 on the file of the IV Fast Track Metropolitan Magistrate, George Town, Chennai and set aside the order passed in Crl.M.P.No.7040 of 2018 dated 31.01.2019 and allow the above Crl.O.P.

For Petitioner : No appearance

For Respondent : Mr.W.M.Abdul Azeez

ORDER

This Criminal Original Petition has been filed praying to call for the records in C.C.No.944 of 2017 on the file of the IV Fast Track Metropolitan Magistrate, George Town, Chennai and set aside the order passed in Crl.M.P.No.7040 of 2018 dated 31.01.2019

2. In spite of repeated adjournments, neither the petitioner nor his counsel appeared before this Court. Heard Mr.W.M.Abdul Azeez, learned counsel appearing for the respondent.

3. The petitioner is an accused in C.C.No.944 of 2017 on the file of the IV Fast Track Metropolitan Magistrate, George Town, Chennai and the said case has been filed by the respondent

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under Section 138 of Negotiable Instruments Act (herein after referred to as "NI Act"). When the case is posted for hearing both side arguments, the petitioner herein filed an application in Crl.M.P.No.7040 of 2018 praying to recall P.W.2 for further cross-examination. By an order dated 31.01.2019, the learned Metropolitan Magistrate, Fast Track Court-IV, George Town, Chennai, after affording opportunity to the respondent herein dismissed the said application. Aggrieved over the same, the petitioner is before this Court with the prayer to set aside the order passed in Crl.M.P.No.7040 of 2018.

4. On going through the impugned order passed by the learned Magistrate, it appears that in C.C.No.944 of 2017, none have been examined on the side of the complainant as P.W.2. It is clearly held that without any witness ranked as P.W.2, the prayer sought out by the petitioner cannot be granted.

5. So on considering the said findings with the relevant records, it is true. In the absence of any evidence alleged to be given by P.W.2, the question of recalling P.W.2 does not arise. On that score alone, the petition filed by the petitioner is liable to be dismissed.

6. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rts

To

IV Fast Track Metropolitan Magistrate,
George Town, Chennai.

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