

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.OP.No.7749 of 2021 &
Crl.MP.Nos.5111 & 5112 of 2021

R.Kamatchi

... Petitioner/Accused

Versus

M.Ramasamy

.... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 08.01.2021 in CMP.No.1454 of 2020 in CC.No.201 of 2018 on the file of the Judicial Magistrate No.II, Namakkal.

For Petitioner : Mr.C.Gunasekaran

ORDER

The petitioner / accused in CC.No.201 of 2018 is facing trial for the offence punishable under Sections 138 and 142 of the Negotiable Instruments Act.

2.The grievance of the petitioner is that she had filed a petition under Section 315 of Cr.P.C. to examine herself as a witness and to prove the fact that four Cheques had been lost and she had given 'stop payments' instructions to the bank. The trial court dismissed the petition on 08.01.2021 and immediately, the petitioner had filed an Original Petition before this Court and it was returned at the stage of SR and thereafter, she had filed the present Original Petition and hence there is no delay in challenging the order of the trial court. Now, the case is posted for Judgment before the trial court on 30.04.2021. A great prejudice would be caused to the petitioner if the order of the trial court is not set aside. The petitioner shall be given an opportunity to examine herself and to mark 'stop payments' instructions which was acknowledged by Karur Vysya Bank, Pelukurichy Branch.

3. Considering the submissions and on perusal of materials, it is seen that the trial court had in the dismissal order stated that the petitioner was examined on 16.10.2020 under Section 313 of Cr.P.C. Thereafter, the case was posted for arguments on 06.11.2020. Subsequently, the case has been periodically adjourned for one reason or another. Later on, a petition under Section 315 Cr.P.C. came to be filed and on the same day, it was dismissed. In the order, though there is mention about the seven adjournments periodically given after the case was posted for arguments from 24.03.2020 till 11.09.2020, the petitioner had not filed any petition then. Only on 08.12.2020, a petition under Section 315 Cr.P.C. has been filed.

4. The contention of the learned counsel for the petitioner is that the petitioner may be given one more opportunity so that the bank return memo can be marked.

5. From a perusal of the complaint, it is seen that the reply notice of the petitioner had been listed as Document No.5 and in the reply notice of the petitioner dated 18.11.2017, it is clearly mentioned about the missing of four Cheques and the instructions given to Karur Vysya Bank Limited, Pelukurichy Branch. Since the fact of missing of the Cheques have already been brought into the case, the petitioner to be examined would not serve any purpose and it would only cause further delay in the case.

6. The case is posted for Judgment before the trial court on 30.04.2021. In the circumstances of the case, this Court gives liberty to the petitioner to appear before the trial court on 27.04.2021 or 28.04.2021 and file her written submissions and advance her arguments after giving notice to the respondent/complainant. The trial court is directed to proceed with the case as adjourned earlier and pronounce the Judgment on 30.04.2021.

7. This Petition is disposed of with the above directions. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

The Judicial Magistrate No.II,
Namakkal.

+1cc to Mr.C.Gunasekaran, Advocate Sr.25504 [29/04/2021]

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srg 26/04/2021



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