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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:09.09.2021

CORAM

THE HON'BLE Mr. JUSTICE C.V.KARTHIKEYAN

Cr1.O.P.No.7477 of 2017
and Cr1.M.P.No.5400 of 2017

Madhavan

.. Petitioner/Accused

Vs.

M/s.Marina Electronics
Rep. by its Managing Partnership,
D.Subramaniam

.. Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.309 of 2015 pending before the learned Fast Track Court-II Metropolitan Magistrate, Egmore, Chennai and set aside the order, dated 03.04.2017 in M.P.No.110 of 2017 in C.C.No.309 of 2015 passed by the learned Fast Track Court-II Metropolitan Magistrate, Egmore, Chennai.

For Petitioner .. Mr.B.Natarajan

For Respondent .. Mr.Dinesh Raj Kumar
for Mr.S.Ramesh

ORDER

The petitioner herein is the accused in C.C.No.309 of 2015 which is pending on the file of the Fastrack Court No.II Metropolitan Magistrate, Egmore, Chennai

2. The trial had progressed. The witnesses on behalf of defacto complainant has been examined and cross-examined. Thereafter, the present petitioner/accused has filed an application in M.P.No.110 of 2017 seeking permission to examine three witnesses on behalf of the defence. They were two bank managers, namely, the manager of the branch where the cheque was



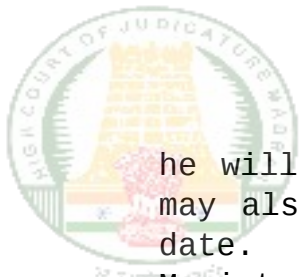
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issued and the manager of the bank where the cheque was actually deposited. The third witness is the brother of the present petitioner/accused. The learned Metropolitan Magistrate Court appears to have been quite frustrated, since a reading of the order shows that opportunity was granted to the present petitioner to produce the brother for more than ten hearing dates. He had not ultimately produced his brother, but, had filed an application to summon his brother. The learned Magistrate had also stated that the petitioner may examine the brother as a witness without summons but that such examination should be concluded by the next hearing date.

3. This order was dated 03.04.2017 and within a week, the present petition has been filed and for the past four years, further progress in the Calendar Case i.e., in C.C.No.309 of 2015 has been effectively stayed. An opportunity had actually been granted to the petitioner to produce his brother as witness. That opportunity still stands. Insofar as the two bank Managers are concerned, the learned Magistrate has observed no reason had been given as to why they should be examined as witnesses. The reason will come out only when they enter into the witness box. One witness would state that the cheque was issued from the bank and branch where it was actually issued and the other would state that the cheque was dishonoured in the bank and branch where it was deposited.

4. The present petitioner is of the opinion that some advantage would be gathered from such evidence. Let the evidence be recorded and let an opportunity be granted to the learned counsel for the complainant to cross-examine said witnesses regarding the material aspects which are spoken to by the witnesses. With respect to the brother of the petitioner herein, the actual role he played either in issuing the cheque or in ensuring that it was dishonoured may also be put forth during the course of cross-examination. Let the process be continued in C.C.No.309 of 2015.

5. But, however, I would like to give a specific timeline. If the matter is taken up for hearing, which should be done on or before 30.09.2021, after receipt of a copy of this order, the learned Magistrate may fix necessary hearing dates in the month of October for summoning the two bank managers. The petitioner may give a specific date in the month of October, when



he will produce his brother as witness. All the three witnesses may also be cross-examined either on the date or the very next date. If for any reason, that is not possible, the learned Magistrate can give only one further time for such cross-examination. Let the entire trial process be, therefore, concluded on or before 31.10.2021 and thereafter, judgment be delivered on or before 12.11.2021.

6. With the above said observations, the Criminal Original Petition is disposed of. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

grs/kbs

To

The Fast Track Court-II Metropolitan Magistrate,
Egmore,
Chennai.

Cr1.O.P.No.7477 of 2017
and Cr1.M.P.No.5400 of 2017

SJ(CO)
SB(04/10/2021)