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CrI.O.P.No.23539 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.23539 of 2021 and
CrI.MP.Nos.12931 and 12932 of 2021

1. M/s.Pacific Infotech Private Limited,
Rep by its Director, Mr.Ashok B.Jeswani,
10/B, Abbas Building, First Floor,
Jalbhai Street,
Near Dreamland Cinema,
Grant Road (East)
Mumbai 400 004.
2. Ashok B Jeswani
Director, M/s.Pacific Infotech Private Limited.
3. Kishore B Jeswani
Director, M/s.Pacific Infotech Private Limited
4. Sanjay Daudayal Sharma
Director, M/s.Pacific Infotech Private Limited ..Petitioners

Versus

M/s.Cadenworth India Limited
Rep. By M.Sundararajan,
Power of Attorney,
SPL Guindy House,
95, Mount Road,
Guindy, Chennai 600 032. ... Respondent



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PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to set aside the order passed in Crl.M.P.No.11953 of 2021 in C.C.No.1425 of 2016 on the file of the Learned Metropolitan Magistrate, Fast Track Court III, Saidapet, Chennai and permit the petitioner to cross examine PW1 in the above case.

For Petitioner : Dr.S.S.Swaminathan
For Respondent : Mr.V.T.Narendran

ORDER

This petition has been filed by the petitioners to set aside the order passed in Crl.M.P.No.11953 of 2021 in C.C.No.1425 of 2016 on the file of the Learned Metropolitan Magistrate, Fast Track Court III, Saidapet, Chennai and permit the petitioner to cross examine PW1 in the above case.

2. The learned counsel appearing for the petitioner submitted that though P.W.1 was cross examined, the petitioners would like to put forth specific suggestion based on the answer of P.W.1 during cross

examination and the suggestion mentioning some facts which was not part part of the complaint but part of the chief examination and hence the



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petitioners filed CrI.M.P.No.11953 of 2021 in C.C.No.1425 of 2016 on the file of the Learned Metropolitan Magistrate, Fast Track Court III, Saidapet, Chennai. He further submitted that trial under Section 138 of the Negotiable Instruments Act is a statutory presumption against the petitioners, but the Lower Court has not considered the case on merits and dismissed the same on the ground that the case is pending from the year 2016 and there was specific direction from this Court to dispose of the case within a period of three months. He further submitted that if the petitioner is not permitted to recall and cross examine, P.W.1 great prejudice would be caused to him. It is his further contention that P.W.1 is none other than the complainant who appears regularly all the hearings and the petitioners will cross examine him and complete arguments on the same day.

3. The learned counsel appearing for the de-facto complainant submitted that petitioners are dragging the case for one reason or the other from 2016 and because of the non payment by the petitioners, the business of the de-facto complainant is stopped, as the outstanding



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amount payable by the petitioners is morethan one crore. He further submitted that this Court has already directed the trial Court to complete the trial within a period of three months and hence the trial Court has rightly dismissed the petition, filed for recalling of P.W.1. He further submitted that subject to the undertaking that the arguments shall be advanced and completed on the next hearing date, the case of the petitioners may be considered sympathetically.

4. Considering the said submission, this Court set aside the order dated 09.11.2021 passed in CrI.M.P.No.11953 of 2021 in C.C.No.1125 of 2006 and permit the petitioner to recall and cross examine complainant/P.W.1 on the next earlier possible date and thereafter to complete the arguments on the next hearing date. However, it is made clear that the examination process shall not be extended morethan 10 days.

This Criminal Original Petition is disposed of accordingly.



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Consequently, connected M.P.'s are closed.

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Index: Yes/No

Internet: Yes/No

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To

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Jalbhai Street,
Near Dreamland Cinema,
Grant Road (East)
Mumbai 400 004.

2. The Metropolitan Magistrate
FTC III, Saidapet,
Chennai.

3.The Public Prosecutor,
High Court, Madras.

M.NIRMAL KUMAR, J.

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