



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.Nos.24404 and 24407 of 2021
and
Crl.MP.No.13458 of 2021

P.Suguna

..Petitioner in both
Crl.O.P.'s

Versus

Mathavan

... Respondent in both
Crl.O.P.'s

PRAYER in Crl.O.P.No.24404 of 2021: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for records from the learned Judicial Magistrate No.II, Gopichettipalayam, Erode District in CMP.No.1091 of 2021 dated 13.09.2021 and set aside the order.

PRAYER in Crl.O.P.No.24407 of 2021: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for records from the learned Judicial Magistrate No.II, Gopichettipalayam, Erode District in CMP.No.1092 of 2021 dated 13.09.2021 and set aside the order.

For Petitioner : Mr.Muthusamy
(in both Crl.O.P.'s)

For Respondent : Mr.E.Raj Thilak
(in both Crl.O.P.'s) Additional Public Prosecutor

C O M M O N O R D E R

Since the parties and issue involved in both these petitions are one and the same, they are taken up together and disposed of vide common order.

2. The respondent herein filed a complaint in C.C.No.213 of 2017 against the petitioner stating that the petitioner, after borrowing a sum of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand only) had issued a cheque in favour of the respondent and when the same was presented for collection, the cheque was returned, and thereby the petitioner cheated the respondent/complainant.



After the trial commenced on 14.06.2019 the case was posted for cross examination of P.W.1 on 01.08.2019 and as the petitioner could not cross examine P.W.1 on 01.08.2019, the trial Court has closed the evidence of P.W.1 cross examination. Hence, the petitioner filed C.M.P.No.1390 of 2020 for recall of P.W.1 and the same was allowed. Further, again due to covid pandemic situation, the petitioner could not cross examine P.W.1 and again filed C.M.P.No.1091 of 2021 seeking to recall P.W.1 and C.M.P.No.1092 of 2021 for reopening the case. Both the petitions were dismissed vide order dated 13.09.2021. Challenging the order passed in C.M.P.No.1091 of 2021 dated 13.09.2021, Crl.O.P.No.24404 of 2021 has been filed and challenging the order passed in C.M.P.No.1092 of 2021 dated 13.09.2021, Crl.O.P.No.24407 of 2021 has been filed.

3. The learned counsel appearing for the petitioner submitted that the Trial Court has not given sufficient opportunity to the petitioner to put forth his case. He further submitted that great prejudice would be caused to him if the case is not reopened and recalled for cross examination of P.W.1.

4. Considering the facts and circumstances of the case and on perusal of records, this Court is set aside the order dated 13.09.2021 passed in C.M.P.Nos.1091 and 1092 of 2021 and the petitioner is permitted to reopen and recall the evidence of P.W.1, on condition that the petitioner pays a sum of Rs.5,000/- (Rupees Five Thousand only) to P.W.1, on his appearance, P.W.1 shall be recalled and permitted to further cross examination by the petitioner. The said process shall be completed within a period of two weeks from the date of receipt of a copy of this order.

These Criminal Original Petitions are disposed of accordingly. Consequently, connected M.P. is closed.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

arr

To

1. The Judicial Magistrate No.II,
Gopichettipalayam, Erode District.



2. The Chief Judicial Magistrate,
Erode District.

3. The Public Prosecutor,
High Court, Madras.

+2ccs to Mr.Muthusamy, Advocate, S.R.No.67837,67838

CrI.O.P.Nos.24404 and 24407 of 2021

GJ[co]
NSK 03/01/2021