



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2021

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No. 5312 of 2021

and

Crl.M.P. (MD)No.3066 of 2021

Mohan

... Petitioner/
Petitioner/Accused

Vs.

Nagarajan

... Respondent/
Respondent/Complainant

Prayer : Criminal Original Petition is filed under Section 482 Cr.P.C., to set aside the order dated 07.01.2021 made in Crl.M.P.No.2466 of 2019 in S.T.C.No.113 of 2015 on the file of the learned Judicial Magistrate No.I, Fast Track Court at Magisterial Level, Madurai.

For Petitioner : Mr.M.Jagadeesh Pandian

For Respondent : Mr.R.Manoharan

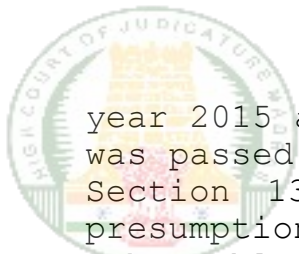
ORDER

Heard the learned counsel on either side.

2. The petitioner is figuring as an accused in S.T.C.No.113 of 2015 on the file of the learned Judicial Magistrate No.I, Fast Track Court at Magisterial Level, Madurai, for the offences under Sections 138 r/w 142 of Negotiable Instruments Act. The complainant's side was already concluded. The petitioner as an accused was entitled to lead defence evidence. But he had not done so. As a result, his side was also closed and the matter was posted for arguments. At this stage, the petitioner filed a petition for examination of defence witnesses. The Court below, by order dated 07.01.2021, dismissed the said petition. Challenging the same, this Criminal Original Petition came to be filed.

2. The learned counsel appearing for the respondent submitted that the order passed by the Court below does not call for any interference.

3. I am in substantial agreement with the contention of the learned counsel appearing for the respondent. The case is of the



year 2015 and more than 6 years have gone. The impugned order itself was passed on 07.01.2021. I cannot lose sight of the fact that under Section 138 r/w 142 of Negotiable Instruments Act, there is a presumption against the accused. Of course, the said presumption is rebuttable and therefore the accused has to be given due opportunity. Though the accused has listed as many as seven witnesses, I called upon the petitioner's counsel to make a choice and reduce the same to two witnesses and the matter was adjourned to enable the counsel to take instructions. Today, he submitted that the petitioner will be satisfied, if he is allowed to examine T.S.Tamil Inbam and P.Uthirakumar. He also states that no summons need to be issued to them and that he would produce them on their own.

4. The learned counsel for the petitioner undertakes that both witnesses will be produced on the next hearing date. He would complete their examination on the same day. The order impugned in this Criminal Original Petition is modified to this limited extent. This Criminal Original Petition is partly allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T AND P)

// True Copy //

21/12/2021

Sub Assistant Registrar(CS II)

mga

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Judicial Magistrate No.I,
Fast Track Court at Magisterial Level, Madurai.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,Madurai.

MGJ

21/12/2021 2P 3C

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