



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE **G. ILANGO VAN**

Crl.O.P (MD) No.13371 of 2021

Mukilan

... Petitioner/Petitioner/Accused

Vs

Karthikeyan

... Respondent/Respondent/Complainant

PRAYER: Petition filed under Section 482 of Code of Criminal Procedure, to call for records and set aside the order of dismissal dated 02.11.2018 passed in petition filed under Section 311 of Cr.P.C, by the Judicial Magistrate, Aruppukottai made in Cr.M.P.No.5775 of 2018 in CC No.198 of 2015.

For Petitioner

: Mr.Santhakumaresan

O R D E R

This petition has been filed to set aside the order of dismissal dated 02.11.2018 passed by the Judicial Magistrate, Aruppukottai made in Cr.M.P.No.5775 of 2018 in CC No.198 of 2015.

2.The learned counsel for the petitioner would submit that the petitioner has filed a petition under Section 311 of Cr.P.C to recall one Thamaraiselvi and V.K.Vadivel Karuppaiah and the Branch Manager of Karur Vysya Bank, P.Mukilan, Bank Manager of State Bank of India and the petitioner himself. That petition came to be allowed in part by imposing cost of Rs.2000/- on the petitioner and he was permitted to reopen the petition insofar as the petitioner/accused is concerned and in respect of other persons, it was dismissed, holding that the relevancy has not been properly explained in the petition. It was also observed that during the course of examination of the complainant side evidence, no reference was also made with regard to the fact that they are the proposed witnesses.

3.Now, the learned counsel for the petitioner would submit that this petition can be partly allowed by permitting the petitioner to examine the Branch Manager attached to Karur Vysya Bank and the Branch Manager, State Bank of India, Aruppukottai. The purpose has been mentioned as to produce the statement of account from 01.01.2014 to 30.05.2015 A/c No.0000010630635510 and to show the date of issue of the cheque. The disputed cheque has been produced before the Court. So, the date of issue can be very well found. So, for that purpose, the Branch Manager, Karur Vysya Bank need not be examined. For the purpose of producing the Statement of accounts, the Branch Manager, State Bank of India, Aruppukottai can be



summoned.

4.Considering the facts and circumstances of the case, this petition is allowed in part by permitting the petitioner to examine the Branch Manager, State Bank of India, Aruppukottai as defence side witness, on condition that the petitioner must pay a sum of Rs.2000/- (Rupees Two Thousand only) as cost to the complainant within 15 days from the date of receipt of a copy of this order. On such payment, the trial Court may issue summons to the Branch Manager, State Bank of India, Aruppukottai, by fixing a particular date and on that date, the petitioner must examine the witness and himself without fail. If any failure is noticed, then the right to recall or examine himself and the Branch Manager, State Bank of India, Aruppukottai will be forfeited.

5.With the above direction, this Criminal Original Petition is partly allowed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

vrn

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, Aruppukottai.

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NSN (CO)

RS/JC (08.11.2021) 2P 2C