



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 10.02.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.695 of 2020

and

Crl.M.P.(MD)No.7329 of 2020

Kavitha

.. Petitioner

Vs.

Thayammal

.. Respondent

Prayer : This criminal revision case is filed under Section 397 of Cr.P.C. r/w. Section 401 Cr.P.C., to call for the records pertaining to the order passed in Crl.M.P.No.1488 of 2020, in S.T.C.No.234 of 2016, dated 09.10.2020 on the file of the Judicial Magistrate, Fast Track Court (Magistrate Level), Nagercoil and to set aside the same and to allow this Revision Petition.

For Petitioner

: Mr.S.Sankar

For Respondent

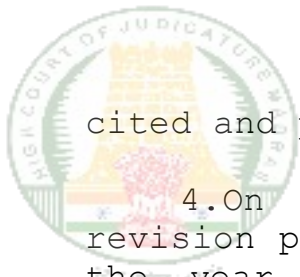
: Mrs.MariyaVinola

ORDER

This Criminal Revision Case has been filed to set aside the order passed in Crl.M.P.No.1488 of 2020, in S.T.C.No.234 of 2016, dated 09.10.2020, on the file of the Judicial Magistrate, Fast Track Court (Magistrate Level), Nagercoil.

2.The respondent herein is the complainant, who lodged a complaint against the petitioner in S.T.C.No.234 of 2016. The revision petitioner filed a petition in Cr.M.P.No.1488 of 2020 under Section 315 Cr.P.C. That petition was dismissed by the Judicial Magistrate, Fast Track Court (Magistrate Level), Nagercoil. Against the same, the petitioner preferred the Criminal Revision.

3.On the side of the petitioner, it is stated that the petitioner handed over cheques to the defacto complainant, but, the defacto complainant misused the cheque leaf and lodged the present complaint and he has filed another case through his son and one another case through his friend. When the petitioner want to adduce further evidence, the trial Court dismissed the petition. The right of the petitioner to prove his case should not be denied. A judgment of this Court in Crl.R.C.Nos.43 and 44 of 2020, in *M.P.Thangavelu Vs. M.P.Thangavelu*, dated 19.12.2020, is



cited and prayed the petition to be allowed.

4. On the side of the respondent, it is stated that the revision petitioner borrowed money from the defacto complainant in the year 2015 and the case was registered in the year 2016. Several opportunities were given to the petitioner. The evidence on the side of the defacto complainant was already over. The defacto complainant argued the case before the lower Court. The case is pending for the arguments of the respondent / revision petitioner herein. The defacto complainant is a 73 years old lady. The revision petitioner is dragging on the matter only with a motive to cheat the defacto complainant. The defacto complainant has to be rendered justice before her death. Even in the affidavit filed by the petitioner, no reason was elicited for non-examination of witnesses, till 24.11.2019. No reason for the delay is mentioned in the affidavit and prayed the petition to be dismissed.

5. It is seen that the revision petitioner has not taken steps to produce witnesses till 24.11.2019. The case was filed in the year 2016. Non Bailable Warrant was issued against the revision petitioner, on 24.11.2019 and the same was re-called on 05.02.2020. Though sufficient opportunity was given to the revision petitioner, she failed to produce witnesses. Even though the petitioner failed to produce witnesses, one more opportunity for the petitioner to put forth her case has to be given, in the interest of justice. Hence, this Criminal Revision Case is allowed on condition that the revision petitioner has to produce the witnesses within a period of two weeks from the date of receipt of copy of this order. The trial Court is directed to dispose of the case within a period of two months from the date of receipt of the order. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

Ls

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,
Fast Track Court (Magistrate Level),
Nagercoil

2.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai(2 COPIES).

COPY TO

The Registrar (Judicial),
Madurai Bench of Madras High Court,Madurai.

+1 CC to M/s.B.TAMIL NIDHI, Advocate SR No.4222[F]

+1 CC to M/s.MARIYA VINOLA, Advocate SR No.4506[F]

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