



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.15493 of 2021

and

Crl.M.P.(MD).No.8324 of2021

J.Selvaraj

... Petitioner/Accused

Vs.

S.Wilson

... Respondent/Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the order passed by the Learned Judicial Magistrate, Sathankulam in Crl.M.P.No.561/2021 in STC No.1144/2017, dated 09.09.2021 and set aside the same.

For Petitioner : Mr.T.A.Ebenzer

O R D E R

This petition has been filed to set aside the order passed in Crl.M.P.No.561/2021 in STC No.1144/2017, dated 09.09.2021, by the learned Judicial Magistrate, Sathankulam.

2.The case has been registered in the year 2017 for the offence punishable under Section 138 of Negotiable Instruments Act. P.W.1 was examined and cross examination was also over on 28.12.2017. Recording as the evidence was completed, the case was posted for arguments. At that time, the petition came to be filed by the petitioner after a lapse of three years from the date of cross examination in Cr.M.P.No.561 of 2021, even though sufficient opportunity was given to the petitioner. Noticing that there was an inordinate delay, the recall petition has been dismissed.

3.The learned counsel for the petitioner submitted that for the purpose of eliciting the fact about the financial capacity of the complainant, one more opportunity may be given to the petitioner to cross examine the P.W.1.

4.On going through the deposition of P.W.1, it appears that some questions were already put to the P.W.1 with regard to his financial capacity. However, the petitioner wants to elicit some more facts. Even though there is a delay on the part of the petitioner, considering the request made by him, this Court is of



the view that on stringent conditions, permission may be granted to the petitioner to cross examine the PW1.

1) The petitioner must deposit a sum of Rs.5,000/- (Rupees Five Thousand only) as cost to the witnesses to the credit of STC.No.1144 of 2017 before the trial Court, within a period of 15 days from the date of receipt of a copy of this order.

2) On such deposit, the trial Court is directed to recall the witnesses P.W.1 for further cross examination by fixing a particular date. On that date, the petitioner must cross examine the witnesses without fail. If any failure is noticed, then the further right to cross examine the witnesses will be forfeited.

5. With the above directions, this criminal original petition is allowed and the order passed by the trial Court in Crl.M.P.No.561 of 2021 in STC.No.1144 of 2017, dated 09.09.2021, is hereby set aside. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TM

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

The Judicial Magistrate, Sathankulam.

Crl.O.P. (MD)No.15493 of 2021
08.10.2021

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