



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE **G. ILANGO VAN**
CrI.O.P. (MD) No.16733 of 2021
and
CrI.M.P. (MD) No.9046 of 2021

M.Raghupathy

... Petitioner

Vs.

Nimmi Baby

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to set aside the order made in Cr.MP.No.1925/2020 in S.T.C.No.873/2016 on the file of Judicial Magistrate No.IV, Tiruchirappalli District dated 04.10.2021 and consequently directing the Judicial Magistrate No.IV, Tiruchirappalli District, recall the witness of PW-1.

For Petitioner : Mr.S.Ramsundarvijayraj

ORDER

This petition is filed seeking an order to set aside the dismissal order that has been passed in Cr.MP.No.1925/2020 in S.T.C.No.873/2016 by the learned Judicial Magistrate No.IV, Tiruchirappalli District, dated 04.10.2021.

2.The petitioner is facing charge under Section 138 of Negotiable Instrument Act before the trial Court. P.W1 was examined in chief and cross-examination and after some time, it appears that Cr.MP.No.1925/2020 came to be filed seeking recalling P.W1 for the purpose of further cross-examination. That petition came to be dismissed by the trial Court stating that change of advocate cannot be a reason for recalling the witnesses.

3.The learned counsel appearing for the petitioner would submit that after the cross-examination of P.W1, there was compromise reached between the parties, in pursuance of which, compromise memo has been filed before the trial Court and this fact has also been stated by the trial Court in its order.

4.Only for the purpose of eliciting the facts with regard to compromise, now P.W1 sought to be recalled. Even though such reason has not been mentioned in the petition, considering the limited scope and request for recalling P.W1, I am of the considered view



that an opportunity may be given to the petitioner, so that further development during the course of trial process can be brought on record. So, this petition is liable to be allowed and accordingly, the same is allowed. The petitioner shall pay a sum of Rs.5,000/- to the complainant within a period of 15 days from the date of receipt of a copy of this order. On deposit being made, the trial Court shall recall P.W1 for the purpose of cross-examination by fixing a particular date. On the date so fixed, the petitioner must cross-examine the witness, namely, P.W1 without fail. If any failure is noticed, the right to further cross-examination of P.W1 to the petitioner will be forfeited. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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.IV,
Tiruchirappalli.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.RAMSUNDARVIJAYRAJ, Advocate (SR-33330[F] dated 29/10/2021)

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29.10.2021

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