



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2021

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No. 17549 of 2021

and

Crl.M.P. (MD)No.9558 of 2021

P.Rajamanickam

... Petitioner/Petitioner/Accused

Vs.

R.Murugesan

... Respondent/Respondent/Complainant

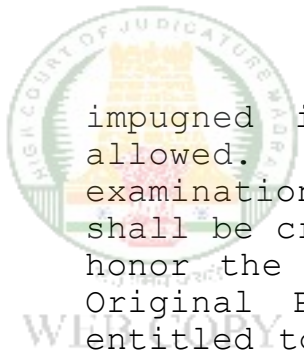
Prayer : Criminal Original Petition is filed under Section 482 Cr.P.C., to set aside the order passed in Crl.M.P.No.2050 of 2021 in C.C.No.417 of 2018 on the file of the Judicial Magistrate (Fast Track Court), Karur.

For Petitioner : Mr.K.Suresh

ORDER

Heard the learned counsel appearing for the petitioner. Though the respondent has been served and his name is printed in the cause list, he has not chosen to enter appearance. The petitioner is figuring as accused in C.C.No.417 of 2018 on the file of Judicial Magistrate (Fast Track Court), Magisterial Level, Karur. When the complainant was examined in chief, the petitioner failed to cross-examine him. Seeking his recall, the petitioner filed Cr.M.P.No.2050 of 2021. The same was dismissed by the Court below vide order dated 10.08.2021. Challenging the same, this Criminal Original Petition has been filed.

2. The petitioner is facing the case for the offence under Section 138 of Negotiable Instrument Act. Since there is a presumption against the petitioner under Section 139 of Negotiable Instrument Act, unless the petitioner is allowed to cross-examine, he cannot rebut the presumption. At the same time, I cannot find fault with the Court below for having dismissed the recall petition. Even while observing that the Court below was justified, still in the interest of justice, one more opportunity could be given to the petitioner. I am inclined to set aside the impugned order that the petitioner has been unnecessarily put on terms. The petitioner undertakes to deposit a sum of Rs.20,000/- (Rupees Twenty Thousand only) to the credit of C.C.No.417 of 2018 on or before 07.01.2022. Recording the said undertaking, the order



impugned is set aside and the Criminal Original Petition is allowed. The complainant shall stand recalled for facing cross-examination. The complainant shall be present on 07.01.2022. He shall be cross-examined on the same day. If the petitioner fails to honor the undertaking now given before this Court, this Criminal Original Petition stands disposed of. The complainant will be entitled to withdraw the said amount subject to the outcome of the CC. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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

The Judicial Magistrate (Fast Track Court),
Karur.

+1 CC to M/s.K.SURESH, Advocate (SR-38794[F] dated 15/12/2021)

Crl.O.P. (MD)No.17549 of 2021

and

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