



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.18610 of 2021

and Crl.M.P.(MD)No.10299 of 2021

WEB COPY

S.Thaipavai

... Petitioner / Accused

Vs

Suriyaraj

... Respondent / Complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records pertaining to the impugned docket order dated 16.11.2021 made in S.T.C No.9 of 2017 by the learned Judicial Magistrate No.IV, Tiruchirappalli and set aside the same and to consequently, direct the learned Judicial Magistrate No.IV, Tiruchirappalli to allow the petitioner / accused to pay the cost of Rs.5,000/- as per the condition order dated 26.03.2021 made in Crl.M.P.No.968 of 2021 in S.T.C.No.9 of 2021 on the file of the learned Judicial Magistrate No.IV, Tiruchirappalli and allow the petitioner to cross examine the complainant P.W.1.

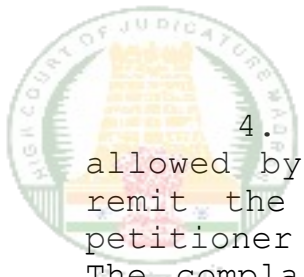
For Petitioner : Mr.Y.Krishnan

ORDER

Heard the learned counsel for the petitioner.

2. In view of the peculiar circumstances, issuance of notice to the complainant / respondent is dispensed with.

3. The petitioner is facing trial in S.T.C.No.9 of 2017 on the file of the Judicial Magistrate No.IV, Tiruchirappalli. It is a private complaint instituted by the respondent for the offence under Section 138 of the Negotiable Instruments Act. The petitioner failed to cross examine P.W.1. Therefore, the prosecution side was closed. Thereafter, the petitioner filed Crl.M.P.No.968 of 2021 for recall of P.W.1 for cross-examination. The said miscellaneous petition was allowed on 26.03.2021 on condition that the petitioner should pay a cost of Rs.5,000 /- to the complainant's counsel directly on or before 07.04.2021. It appears that the petitioner failed to pay the cost within time. Instead, the petitioner filed a revision case before the Sessions Court. On 05.10.2021, the petitioner paid a sum of Rs.5,000/- to the complainant's counsel and the same was also accepted. Thereafter, the complainant's counsel filed a memo and returned the cost amount of Rs.5,000/-. In these circumstances, even without the petitioner being allowed to cross examine P.W.1, the case is posted for argument on 30.11.2021. Hence, this Criminal Original Petition has been filed.



4. It is not in dispute that the petition for recall was allowed by the court below. Of-course, the petitioner failed to remit the cost within time. The said amount was paid by the petitioner in the month of October to the complainant's counsel. The complainant's counsel has later filed a memo stating that the cost amount was mistakenly accepted and also returned the same. The petitioner's counsel states that on account of pandemic, the petitioner found it difficult to raise funds. The petitioner will suffer irreparable hardship, if she is made to argue the case without the benefit of the cross examination of P.W.1.

5. Therefore, I *suo motu* extend the time for payment of cost. The petitioner shall pay the cost amount of Rs.10,000/- to the complainant's counsel directly on or before 29.11.2021. If the complainant's counsel refuses to accept the same, the said amount will be deposited to the credit of S.T.C.No.9 of 2017 on the file of the Judicial Magistrate No.IV, Tiruchirappalli. On such deposit, the petitioner will be permitted to cross examine P.W.1 on 30.11.2021. If the petitioner fails to deposit the amount of Rs.10,000/-, the benefit of this order will go automatically. This Criminal Original Petition is disposed of on these terms. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CRL SIDE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

rmi

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 No.IV, Tiruchirappalli

+1 CC to M/s.Y. KRISHNAN, Advocate (SR-36097[F] dated 26/11/2021)

Cr1.O.P(MD)No.18610 of 2021
and

Cr1.M.P. (MD)No.10299 of 2021
26.11.2021

KS (CO)

TR/SKN(26.11.2021) 2P 3C