



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **15.11.2021**

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGOVAN**

Crl.O.P. (MD) No.17563 of 2018

S.Arul Raj

... Petitioner/Accused

Vs.

J.Thomas Sekar

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records and set aside the order dated 20/09/2018, made in C.M.P.No.3855 of 2018 in S.T.C.No.46 of 2018, on the file of the Learned Judicial Magistrate No.I, Padmanabhapuram.

For Petitioner : Mr.C.Muthusaravanan
For Respondent : No Appearance

ORDER

This petition has been filed seeking order setting aside the order dated 20/09/2018, made in C.M.P.No.3855 of 2018 in S.T.C.No.46 of 2018, on the file of the Learned Judicial Magistrate No.I, Padmanabhapuram.

2.The petitioner is facing charges under Section 138 of Negotiable Instruments Act before the trial Court, which was registered in the year 2018. After examination of PW1 was over, a representation has been made by the petitioner to refer the matter for Lok Adalat for settlement. Later it appears that no settlement was arrived between the parties. Later PW2 was also examined in chief and it was posted on 05.09.2018 for further proceedings. At that time this petition came to be filed on 05.09.2018, which came to be dismissed by the impugned order. The learned counsel for the petitioner submitted that because of the effort that has been made by the petitioner to settle the issue in Lok Adalat, he has not cross examine the witness.

3.Considering the events that took place before the trial Court without cross examining the complainant and material witness, the fair trial may not be possible. Therefore, even though the matter is of the year 2018, I am of the considered view that the petition is liable to be allowed with the following stringent conditions.

1) The petitioner must deposit a sum of Rs.2,000/-



(Rupees Two Thousand only) as cost to each of the witnesses to the credit of S.T.C.No.46 of 2018 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.Ws.1 and 2 for 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.

4. With the above directions this criminal original petition is allowed.

Sd/-

Assistant Registrar (CO)

// 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 No.I, Padmanabhapuram.

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