



Crl.O.P.No.29089 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2022

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.29089 of 2022

Vaiyapuri

... Petitioner

VS

Rajathi

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the docket order dated 16.06.2022 passed in CMP SR.No.5628 of 2022 in M.C.No.9 of 2019 by the Judicial Magistrate No.I, Mettur, Salem District and consequently direct the said Magistrate to number the CMP SR.No.5628 of 2022 in M.C.No.9 of 2019 (Old M.C.No.1 of 2013).

For Petitioner : Ms.Parvin Banu.L



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ORDER

This Criminal Original Petition has been filed to set aside the docket order dated 16.06.2022 passed in CMP SR.No.5628 of 2022 in M.C.No.9 of 2019 by the Judicial Magistrate No.I, Mettur, Salem District and to direct the learned Magistrate to number the CMP SR.No.5628 of 2022 in M.C.No.9 of 2019 (Old M.C.No.1 of 2013).

2. The learned counsel for the petitioner submitted that the respondent filed M.C.No.1 of 2013 on the file of the Judicial Magistrate No. I, Mettur, Salem against the petitioner and it was allowed on 15.04.2015. Aggrieved over the same, the petitioner filed Crl.R.C.No.509 of 2015 before this Court and the same was allowed on 02.06.2015. Earlier, this Court, while granting stay in Crl.M.P.No.1 of 2015 in Crl.R.C.No.509 of 2015, directed the petitioner to deposit 50% of the amount ordered by the Trial Court to the Credit of M.C.No.1 of 2013. Subsequently, the petition filed in Crl.R.C.No.509 of 2015 was disposed by this Court by allowing the petition



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and the matter was remanded back to the learned Judicial Magistrate No I, Mettur for fresh consideration. Thereafter, the learned Magistrate has numbered the case as M.C.No.9 of 2019 and the same was disposed on merits on 03.09.2021 by dismissing the maintenance petition filed by the respondent.

3. Thereafter, the petitioner filed CMP SR.No.5628 of 2022 in M.C.No.9 of 2019 for return of sum of Rs.43,500/- remitted by the petitioner as per the direction of this Court in MP No.1 of 2015 in Crl.R.C.No.509 of 2015 in M.C.No.1 of 2013. However, the petition was returned stating that there is no specific mention in Crl.R.C.No.509 of 2015 as to whether the amount deposited is refundable or not. Hence, the present petition has been filed to set aside the return endorsement and to direct the learned Magistrate to number the petition in CMP SR.No.5628 of 2022 in M.C.No.9 of 2019.

4. On perusal of records, it is seen that the maintenance case was numbered as M.C.No.9 of 2019 and the same was dismissed. Therefore, the petitioner has rightly filed the petition in CMP SR.No.5628 of 2022 in



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M.C.No.9 of 2019 to return the sum of Rs.43,500/- deposited by him as per
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G.CHANDRASEKHARAN, J.

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the earlier order of this Court. Therefore, the docket order dated 16.06.2022 passed in CMP SR.No.5628 of 2022 in M.C.No.9 of 2019 by the Judicial Magistrate No.I, Mettur, Salem District is hereby set aside. The learned Magistrate is directed to number the CMP SR.No.5628 of 2022 in M.C.No.9 of 2019 and issue notice to the respondent and pass appropriate orders on merits and in accordance with law.

5. With the above direction, this Criminal Original petition stands disposed of.

12.12.2022

Internet:Yes

Index:Yes/No

Speaking/Non speaking order

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