



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.06.2022

CORAM:

THE HONOURABLE MR. JUSTICE **V. SIVAGNANAM**

Crl.O.P.(MD) No.10645 of 2022

and

Crl.M.P.(MD) Nos.6667 and 6668 of 2022

WEB COPY

Thangathai Arul, : Petitioner/Complainant

Vs

Jayakumar, : Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to set aside the docket order dated 07.04.2022 passed by the learned Judicial Magistrate, Valliyoor, Tirunelveli in STC.No.2504 of 2011 and consequently direct the aforesaid learned Magistrate to obtain expert opinion in the light of the order passed by this Court in Crl.R.C.(MD)No.370 of 2016, dated 13.07.2017.

For Petitioner : M/s.Anand R,

ORDER

This Criminal Original Petition has been filed seeking to set aside the docket order passed by the learned Judicial Magistrate, Valliyoor, Tirunelveli in STC.No.2504 of 2011, dated 07.04.2022 and consequently, direct the aforesaid learned Magistrate to obtain expert opinion in the light of the order passed by this Court in Crl.R.C.(MD)No.370 of 2016, dated 13.07.2017.

2.The learned Counsel appearing for the petitioner submitted that the petitioner is an accused in S.T.C.No.2504 of 2011, on the file of the learned Judicial magistrate, Valliyoor, Tirunelveli. In this case, the petitioner has filed a case in Crl.R.C.No.317 of 2016, before this Court, seeking to send a cheque for obtaining expert opinion, the petition was allowed, by order, dated 13.07.2017. In pursuance of that order, a sum of Rs.6000/- has been paid by the petitioner before the trial Court, on 29.04.2019. The Court below also received that amount and made an endorsement in the memo. The memo copy has also been filed. But, unfortunately, the learned Judicial Magistrate, Valliyoor, closed that petition, on the ground that the Forensic Laboratory Fee has not been paid by the petitioner. Hence, this petition has been filed.

3.On perusal of records, it is found that the petitioner is an accused in S.T.No.2504 of 2011 on the file of the learned Judicial Magistrate, Valliyoor. He filed an application for forwarding the disputed cheque to the Forensic Lab, for examination of expert, which was allowed by this Court in Crl.R.C.(MD)No.370 of 2016. In

pursuance of this order, on 29.04.2019, he paid a sum of Rs.6000/- and an endorsement was also made by the trial Court. Further, on a perusal of the Diary Extract, dated 07.04.2022, it reveals that the learned Judicial Magistrate, Valliyoor, closed the petition, on the ground that the laboratory fee was not paid by the accused person. Since it is falsified by the memo filed by the petitioner, the impugned docket order is un-sustainable.

4. Therefore, the order passed by the learned Judicial Magistrate, Valliyoor, in S.T.C.No.2504 of 2011 is set aside and the learned Judicial Magistrate, Valliyoor, is directed to forward the alleged cheque for examination.

5. With the above direction, this criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar()

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/ /2022

Sub Assistant Registrar(CS)

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To

The Judicial Magistrate, Valliyoor, Tirunelveli

Crl.O.P.(MD) No.10645 of 2022
16.06.2022

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