



CrI.O.P.(MD) No.12775 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.07.2022

CORAM:

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

CrI.O.P.(MD).No.12775 of 2022

and

CrI.O.P.(MD).Nos.8090 and 8091 of 2022

C.Jegadeesan

... Petitioner

Vs

C.Velraj

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to call for the records pertaining to the impugned order dated 22.01.2021 passed in Cr.M.P.No. 4451 of 2021 in C.C.No.155 of 2012 on the file of the learned Judicial Magistrate No.I, Kovilpatti and to set aside the same in the nature and circumstance of the case.

For Petitioner : Mr.R.Rajamohan



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ORDER

This criminal original petition has been filed to set aside the impugned order dated 22.01.2021 passed in Cr.M.P.No. 4451 of 2021 in C.C.No.155 of 2012 on the file of the learned Judicial Magistrate No.I, Kovilpatti.

2. The learned counsel for the petitioner submitted that the petitioner is an accused in C.C.No.155 of 2012. A complaint has been preferred by the respondent against the petitioner for offences punishable under Section 138 of Negotiable Instrument Act which is taken cognizance in C.C.No.155 of 2012 by the learned Judicial Magistrate No.I, Kovilpatti. The said case is now pending trial for defense side further evidence. On the defense side, three witnesses have been examined and the petitioner filed an application to examine one Kumarasamy as a Court witness to establish the fact that the said Kumarasamy have filed a complaint against the petitioner in C.C.No.115 of 2012 for offences under Section 138 of Negotiable Instrument Act, though the case was ended in acquittal on 08.11.2018. In this regard, during the cross examination, the complainant admitted the fact about the filing of cases by Kumarasamy. Therefore, filed application to examine the said Kumarasay as



a Court witness. The Trial Court dismissed the petition by impugned order.

Now, the learned counsel for the petitioner wants to examine the witness Kumarasamy as a Court witness to establish the above said fact for filing of case against the accused which was ended in acquittal.

3. I have considered the matter in the light of the submissions made by the learned counsel for the petitioner and perused the records.

4. Perusal of the records reveals the fact that the respondent filed a private complaint against the petitioner for offence under Section 138 of Negotiable Instrument Act which was taken on file in C.C.No.155 of 2012. After examination of witnesses, the case was posted for defense side evidences. The accused examined three witnesses. The petitioner wants to examine one Kumarasamy as a Court witness in order to establish the fact about the filing of cases by the said Kumarasamy against the petitioner in C.C.No.115 of 2012 which was ended in acquittal. It was also admitted by the complainant during his cross examination. The petitioner accused has right to examine any witness on his side as a defense witness but he cannot insist the Court to examine any witness as a Court witness unless the Court



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wants to examine particular witness for adjudicating the issue before it is needed, but no party has power to insist the Court to examine the witness as a Court witness. Therefore, I find no reasons to interfere with the impugned order passed by the Trial Court and no merit in the application and hence dismissed. The petitioner is given liberty to approach the Trial Court to examine further defense side witness on his side.

5. Accordingly, this Criminal Original Petition stands dismissed.
Consequently, connected miscellaneous petitions are closed.

21.07.2022

Internet: Yes
Index: Yes/No
Nsr

To

The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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V.SIVAGNANAM, J.

Nsr

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