



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P. (MD)No.16163 of 2019

and

Crl.M.P. (MD)No.9622 of 2019

WEB COPY

P.Umamaheswari

... Petitioner/Petitioner/
Accused

vs.

R.Saravanan

... Respondent/Respondent/
Complainant

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C, to set aside the order dated 09.09.2019 passed in Cr.M.P.No.1064 of 2019 in S.T.C.No.114 of 2013 on the file of the learned Judicial Magistrate, Fast Track Court (ML), Theni and direct the learned Judicial Magistrate, Fast Track Court (ML), Theni to recall the P.W.1 for cross examination in S.T.C.No.114 of 2013 on the file of the learned Judicial Magistrate, Fast Track Court (ML), Theni by allowing this criminal original petition.

For Petitioner : Mr.R.Shankar Ganesh

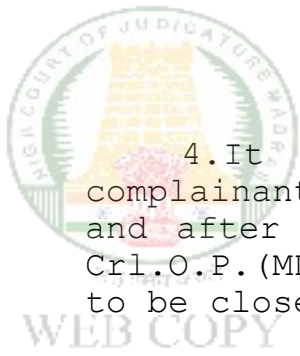
For Respondent : No appearance

O R D E R

This Criminal Original Petition is directed against the order passed in Cr.M.P.No.1064 of 2019 in S.T.C.No.114 of 2013 dated 09.09.2019 on the file of the Court of the Judicial Magistrate, Fast Track, Theni.

2.The petitioner is the accused and the respondent/complainant has filed a complaint, invoking Section 200 Cr.P.C., for the alleged offences under Sections 138 and 142 of Negotiable Instruments Act. When the trial was in progress, the petitioner/accused has filed an application under Section 311 Cr.P.C. seeking orders to recall P.W.1 for further cross-examination in Cr.M.P.No.1064 of 2019. The respondent/complainant has filed a counter statement raising objections and the learned Magistrate, after conducting enquiry, has passed the impugned order, dated 09.09.2019, dismissing the said petition. Aggrieved by the order of the dismissal, the accused has come forward with the present criminal original petition.

3.The learned Judicial Magistrate, by observing that the reason of filing change of memo of appearance for the accused and seeking cross-examination on that score cannot be considered as valid reason, has dismissed the petition.



4.It is evident from the records that the respondent / complainant has filed a transfer petition in Crl.M.P.No.184 of 2014 and after dismissal of the same, he has approached this Court in Crl.O.P.(MD)No.8671 of 2014 and subsequently, the same was ordered to be closed vide order dated 18.05.2018.

5.The learned counsel for the petitioner would submit that the above transfer petitions are the reasons for the delay.

6.It is pertinent to mention that the case is pending from 2013 onwards for the past 9 years. Despite the service of notice on the respondent as well as the learned counsel appearing for the respondent before the trial Court, they have not turned up.

7.Considering the above facts and circumstances and also taking note of the reasons canvassed by the petitioner, this Court is of the view that one more opportunity should be given to the petitioner to cross-examine P.W.1 but, at the same time, this Court is also of the view that the petitioner must be mulcted with costs and the necessary direction is to be given to the trial Court for speedy disposal of the case.

8.In the result, this Criminal Original Petition will be allowed on payment of cost of **Rs.5,000/- (Rupees Five Thousand Only)** to the Madurai Bench of Madras High Court Advocates Welfare Fund [Indian Bank High Court Branch, Madurai, Current Account No.7087208431, IFSC IDIBI000H040], on or before 25.02.2022, failing which this Criminal Original Petition shall stand dismissed automatically without further reference to this Court. Consequently, connected Miscellaneous Petition shall stand closed.

9.The learned Judicial Magistrate, on production of proof for the payment of cost, is directed to permit the petitioner to cross-examine P.W.1 and to proceed with the trial and dispose of the case within a period of three months from the date of resumption of regular functioning of the Court.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

CSM

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

<https://hcservices.ecourts.gov.in/hcservices/>



order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO:

1.The Judicial Magistrate, Fast Track Court (ML), Theni.

2. The officer In-charge,
Advocates Welfare Fund (Indian Bank High Court Branch),
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.R.SHANKAR GANESH, Advocate (SR-4376[F] dated
04/02/2022)

Crl.O.P.(MD)No.16163 of 2019 and

Crl.M.P.(MD)No.9622 of 2019

04.02.2022

_RD(17.02.2022) 3P 4C