



Crl.R.C.No.1158 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2023

CORAM:

THE HON'BLE MR.JUSTICE **M. NIRMAL KUMAR**

Crl.R.C.No.1158 of 2023 &
Crl.M.P.No.9099 of 2023

S.Balasubramanian

... Petitioner

Vs.

S.Sekar

... Respondent

PRAYER: Criminal Revision Petition filed under section 397 r/w 401 Cr.P.C., to set aside the order dated 13.06.2023 passed in Crl.M.P.No.17287 of 2023 in C.C.No.9182 of 2017 on the file of the learned Metropolitan Magistrate Fast Track Court-II, Allikulam, Egmore, Chennai.

For Petitioner : Mr.S.Suresh

For respondent : Mr.S.Sridhar

ORDER

The petitioner who is the accused facing trial in section 138 Negotiable Instrument Act in a private complaint filed by the respondent in C.C.No.9182 of 2017.

2. The contention of the petitioner is that the petitioner had filed a



Crl.R.C.No.1158 of 2023

petition under section 254(2) in Crl.M.P.No.17287 of 2023 to examine Malarkodi and Vijaya as witness on the defence side. The said petition was dismissed by the trial court by order dated 13.06.2023. Challenging the same, the present revision.

3. The contention of the petitioner is that the order of the lower court is not proper. The lower court had observed in its order that during section 313 Cr.P.C., proceeding, the petitioner had given an explanation that from the petitioner's sister, the loan amount was received by the petitioner and during that time, security cheques were given which the petitioner had used the same to file the above case. Referring to the acknowledgement of the said Malarkodi dated 13.06.2016 to fortify that the said Malarkodi had given an acknowledgement that the cheque Nos.154874, 154875, 289351, 191142 and 268640 had been given to her which she misplaced and lost and that, there is no liability for the cheques. Hence, he needs to examine the said Malarkodi and one Vijaya who is the witness to the document. He further submitted that the trial court finding that the original of the document neither produced nor marked as an exhibit could not be proper, since only after the examination of Malarkodi or Vijaya, the document can



Crl.R.C.No.1158 of 2023

be marked.

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4. The counsel for the respondent/complainant submitted that the petitioner had been adapting all dilatory tactics and prolonging the trial since 2017. The petitioner without any reason failed to appear before the trial court on three occasions, Non Bailable Warrants issued and thereby, he had been prolonging the trial. With great difficulty, the respondent was able to execute the Non Bailable Warrant on the third occasion. At that time, the petitioner had filed a 482 petition before this Court in Crl.O.P.No.12497 of 2018 wherein this Court by order dated 27.04.2018 permitted the petitioner to withdraw the said petition and also directed the trial court to complete the trial within six months. Though the said order was passed as early as on 27.04.2018, almost six years have passed and the trial is yet to be completed. He also submitted that the counsel who appearing for the petitioner herein is the counsel appeared in the said Crl.O.P. also. Now the petitioner has filed this petition to further protract the proceedings. He submitted that the respondent has no financial transaction with the said Malarkodi and what was transpired between the Malarkodi and the petitioner, the respondent is not aware. Further referring to the undertaking



Crl.R.C.No.1158 of 2023

of Malarkodi dated 13.06.2016, he submitted that in the said undertaking, the address of Malarkodi is not available, when was the loan given and details of the loan and repayment details not available. Further statutory notice was issued. The respondent neither replied this fact nor made any complaint to the bank in which the petitioner maintains his account to prove the above facts. He further submitted that there is no address or other particulars of the witness to the agreement. This undertaking is a got up document.

5. Considering the submissions made on either side and on perusal of the materials available on record, this Court is not inclined to entertain this petition. Considering the fact that the case is of the year 2017 and despite a direction given in the year 2018 to complete the trial within six months from the date of said order, this court gives a direction to the trial court to complete the trial in C.C.No.9182 of 2017 on the file of the learned Metropolitan Magistrate, Fast Track Court II, Alikulam, Egmore, Chennai within a period of two months from the date of receipt of a copy of this Order. Accordingly, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.



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Crl.R.C.No.1158 of 2023

20.11.2023

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Index: Yes/No

Speaking Order/Non-speaking order

Neutral Citation: Yes/No

To

1. The Metropolitan Magistrate Fast Track Court-II, Allikulam, Egmore,
Chennai.

2. The Public Prosecutor,
High Court of Madras



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Crl.R.C.No.1158 of 2023

M. NIRMAL KUMAR, J.

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Crl.R.C.No.1158 of 2023



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Crl.R.C.No.1158 of 2023

20.11.2023