



Crl.O.P.(MD)No.1304 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: **27.03.2023**

CORAM:

THE HONOURABLE MRS.JUSTICE **R.THARANI**

Crl.O.P.(MD) No.1304 of 2020
and
Crl.M.P.(MD)No.583 of 2020

Balla Steels,

Rep. by its Managing Director

R.Palanisamy, S/o. Rengasamy Gounder ... Petitioner/Petitioner /
Complainant

Vs.

Sri Ashwini Agencies,

Rep.by Proprietor, R.Velmani ... Respondent /Respondent/
Accused

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to set aside the order passed by the Fast Track Court at Judicial Magistrate Level, Karur, in C.M.P.No.5448 of 2019, in C.C.No.200 of 2016, dated 24.03.2019.

For Petitioner : Mr.N.Shanmuga Selvam

For Respondent : No appearance



WEB COPY



CrI.O.P.(MD)No.1304 of 2020

ORDER

This petition is filed to set aside the order passed by the Judicial Magistrate (Fast Track Court), Karur, in C.M.P.No.5448 of 2018 in C.C.No.200 of 2016, dated 24.06.2019.

2. A brief substance of the petition in C.M.P.No.5448 of 2019 is as follows:-

The petitioner filed a complaint against the respondent under Section 138 of NI Act. The previous counsel failed to include the address of the Firm in the complaint and the complaint was filed with the residential address of the complainant. During the cross-examination of the complainant, the accused did not raise any objection regarding this aspect. In order to remove the legal technicalities, the petitioner filed the petition to amend the address.

3. A brief substance of the counter filed by the respondent in C.M.P. No.5448 of 2019 is as follows:-

This petition is filed only to fill up the *lacunas* in the case. The accused has already established in the case. The main defence taken by the respondent is that there was no relationship between the complainant



and the Firm. No supporting documents were filed, on the side of the petitioner. The petition is a belated one and the petition is liable to be dismissed.

4. After considering both sides, that petition was dismissed by the trial Court. Against the dismissal order, the petitioner filed this petition on the following grounds:-

The complainant is a partnership Firm. Subsequently, the petitioner was released from the partnership Firm and he was given power of attorney to contest the case. Unless the address of the petitioner is permitted to be amended, the petitioner will be put into trouble and the order is to be set aside.

5. It is seen that the original complaint was filed denoting the complainant as Balla Steels, represented by its Managing Partner R.Palanisamy, S/o. Rengasamy Gounder. Now the petitioner is claiming that he was released from the partnership Firm, on 14.10.2012 and a general power deed was given to him on 17.10.2012 to conduct this case on behalf of the Firm. The original complaint was signed on 09.06.2011. The alleged transaction took place on 27.07.2010 and the case was filed by the petitioner in the capacity of the Managing Partner, release deed



Crl.O.P.(MD)No.1304 of 2020

was dated 14.10.2012, which is subsequent to the transaction and subsequent to the filing of the case. The alleged release deed and the power deed are subsequent to the filing of the original complaint. Moreover, in both the release deed and the power deed, the name of the petitioner was mentioned as Palanisamy, S/o. Rangappa Gounder, whereas, the original complaint was filed by Palanisamy S/o. Rangasamy Gounder. Though this point was mentioned in the order of the lower Court, the petitioner has not chosen to give any explanation for the difference in the father's name.

6. Since the power deed and the release deed are subsequent to the filing of the case in C.C.No.200 of 2016, since there is no explanation regarding change in the name of the father of the petitioner, this Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
Ls

27.03.2023



Crl.O.P.(MD)No.1304 of 2020

WEB COPY

To

1.The Fast Track Court at Judicial Magistrate Level,
Karur.

2. The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD)No.1304 of 2020

R.THARANI. J.

Ls

Crl.O.P.(MD)No.1304 of 2020

27.03.2023