



CrI.O.P.(MD)No.4450 of 2023
and
CrI.MP(MD)No.3932 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2023

CORAM :

THE HONOURABLE **Mr. JUSTICE G.ILANGO VAN**

CrI.O.P.(MD)No.4450 of 2023
and
CrI.MP(MD)No.3932 of 2023

C. Velmurugan

... Petitioner

Vs.

C.T. Kumarappan,
Partner,
M/s. Sree Nellai Moogambigai Finance,
D.No.60, A.P. Mada Street,
Tirunelveli Town.

... Respondent

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 09.02.2023 passed in CrI.M.P.No.973 of 2023 in S.T.C.No. 491 of 2019 on the file of the Judicial Magistrate, Special Court for Exclusive Trial of Negotiable Instrument Act, Tirunelveli and recall the petitioner as D.W.1 for cross examination.

For Petitioner

: Mr.V. Balaji



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ORDER

This petition has been filed to set aside the order dated 09.02.2023 passed in CrI.M.P.No.973 of 2023 in S.T.C.No. 491 of 2019 on the file of the Judicial Magistrate, Special Court for Exclusive Trial of Negotiable Instrument Act, Tirunelveli and recall the petitioner as D.W.1 for cross examination.

2. The petitioner is facing trial before the Court below and several witnesses were examined in chief on various dates. Due to his health condition, the petitioner did not appear before the trial Court for the cross examination and he was not cross examined and thereafter, evidence was closed. Therefore, the petitioner filed the petition in CrI.M.P.No.973 of 2023 under Section 311 of Cr.P.C., to recall the petitioner as D.W.1 and the same was dismissed on 09.02.2023 on flimsy reason. Hence, this petition is filed.

3. Heard both sides.

4. Perusal of records shows that petitioner is facing offences under Section 138 and 142 of Negotiable Instrument Act and the case is pending



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from the year 2019. Therefore, one more opportunity should be given to the petitioner.

5. Considering the fact that petitioner is facing trial under Section 138 and 142 of Negotiable Instrument Act, without cross examination of evidence on his side, a fair judgment may not be possible. On the sole ground, one more opportunity is given to the petitioner on stringent condition. The petitioner is directed to pay Rs.2,000/- (Rupees Two Thousand Only), as cost to the respondent within a week from the date of receipt of copy of this order. On such payment, the trial Court may fix the date for examinations of witnesses. If any failure is noticed on the part of the petitioner, his further right of will be forfeited forever.

6. With the above said direction, this petition stands allowed and the order passed by the Judicial Magistrate, Special Court for Exclusive Trial of Negotiable Instrument Act, Tirunelveli, in CrI.M.P.No.973 of 2023 in S.T.C.No. 491 of 2019, dated 09.02.2023, is set aside. Consequently, the connected Criminal Miscellaneous Petition is closed.

09.03.2023

Index : Yes/No
Internet:Yes/No
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G.ILANGO VAN, J.,

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