



Crl.O.P.(MD)No.5925 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.03.2023

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.5925 of 2023 and
Crl.MP(MD) No.5176 of 2023

Sivakumar

... Petitioner

Vs.

Ramanathan

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records set aside the order dated 29.11.2022 made in Crl.MP.No.17865 of 2022 in C.C.No.98 of 2017 on the file of Judicial Magistrate No.III, Dindigul District.

For Petitioner : Mr.A.Ganesan

ORDER

This Criminal Original Petition has been filed to set aside the order, dated 29.11.2022 made in Crl.M.P.No.17865 of 2022 in C.C.No. 98 of 2017 on the file of Judicial Magistrate No.III, Dindigul District.



Crl.O.P.(MD)No.5925 of 2023

2. The respondent / complainant filed a complaint before the trial Court against the petitioner under Section 138 of Negotiable Instruments Act in C.C.No.98 of 2017. After the closure of evidence of both sides, it appears that the complainant filed a petition under Section 311 Cr.P.C., to recall himself and to mark certain documents to show his financial capacity and the same was allowed by the trial Court. Challenging the same, the petitioner has filed the present petition.

3. The learned counsel for the petitioner submits that the respondent is dragging on the trial proceedings for the past six years. He would further submit that even in the notice, the financial capacity of the respondent was not mentioned. Now, he has created some documents to show his financial capacity and filed the present petition. So it cause serious prejudice.

4. Whether the document sought to be produced is a created one or not, is a matter for consideration before the trial Court. The cross examination to be made by the petitioner may dispute the veracity of the document.



Crl.O.P.(MD)No.5925 of 2023

5. The contention of the petitioner before this Court that the documents produced are created cannot be accepted.

6. Since the case is of the year 2017, a fair opportunity was granted to both sides to prove the financial capability and that recovery has been made by the complainant to prove the capability, this Court finds no reason to interfere with the order passed by the trial Court. Hence, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed.

30.03.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
trp

To

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

2.The Judicial Magistrate No. III, Dindigul District.



WEB COPY



Crl.O.P.(MD)No.5925 of 2023

G.ILANGOVA,J

trp

Order made in
Crl.O.P.(MD)No.5925 of 2023 and
Crl.MP(MD) No.5176 of 2023

Dated: 30.03.2023