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*Crl.O.P.(MD)No.6720 of 2023*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.04.2023**

CORAM:

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

**Crl.O.P.(MD)No.6720 of 2023**

Arulanantham

... Petitioner

Vs.

Aristo Motors,  
Karaikudi,  
represented by its Managing Partner,  
K.Somasundaram,  
represented by its Power gent,  
Pala.Meenakshisundaram,  
Madurai to Devakottai road,  
Karaikudi Taluk,  
Sivagangai District.

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in Crl.M.P.No.2653 of 2022 in C.C.No.205 of 2019 on the file of the Judicial Magistrate / Fast Track Court, Karaikudi, Sivagangai District, dated 22.12.2022, and set aside the same.

For Petitioner : Mr.S.Sathya Chidambaram

### **ORDER**

This petition has been filed to call for the records pertaining to the order passed in Crl.M.P.No.2653 of 2022 in C.C.No.205 of 2019 dated



22.12.2022 on the file of the Judicial Magistrate / Fast Track Court,  
Karaikudi, Sivagangai District.

2. The petitioners is facing trial before the Court below and several witnesses were examined in chief on various dates. Due to the communication gap between the counsel and the petitioner, the petitioner's counsel did not cross-examine the witness P.W.1. Thereafter, the petitioner filed the petition under Section 311 of Cr.P.C., to recall the above said witness and the same was dismissed on 22.12.2022 on flimsy reason. Hence, this petition is filed.

3. Heard both sides.

4. Perusal of records shows that petitioner is facing serious offence under Section 138 of Negotiable Instrument Act and the case is pending from the year 2019. Therefore, one more opportunity may be given to the petitioner to cross examine the P.W.1.

5. Considering the fact that petitioner is facing under Section 138 of Negotiable Instrument Act, without cross examination of the witness P.W.1, a fair judgment may not be possible. On the sole ground, one more



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opportunity is given to the petitioner on stringent condition. The petitioner is directed to pay Rs.5,000/- (Rupees Five Thousand Only), as cost to P.W.1 to the credit of C.C.No.205 of 2019 within a week from the date of receipt of copy of this order. On such payment, the trial Court may fix the date for cross examine the witness of P.W.1. On that date the petitioner's counsel must cross examine the P.W.1 without fail. If any failure is noticed on the part of the petitioner's counsel, his further right of cross examination of P.W.1 will be forfeited forever.

6. With the above said direction, this petition stands allowed and the order passed by the Judicial Magistrate / Fast Track Court, Karaikudi, Sivagangai District, in Crl.M.P.No.2653 of 2022 in C.C.No.205 of 2019, dated 22.12.2022, is quashed.

**20.04.2023**

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

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To

The Judicial Magistrate / Fast Track Court, Karaikudi,  
Sivagangai District.



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**G.ILANGO VAN. J.**

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