



Crl.O.P.(MD)No.10247 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **13.06.2023**

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.10247 of 2023 and
Crl.M.P(MD).No.8148 of 2023

S.Rajendran

...Petitioner

Vs.

M.Solamalai

.... Respondent

PRAYER: This Criminal original Petition is filed under Section 482 Cr.P.C., to call for the records relating to the impugned order dated 09.05.2023 made in Crl.M.P.No.1250 of 2023 in C.C.No.151/2020 on the file of the learned Judicial Magistrate, Karaikudi and set aside the same.

For Petitioner : Mr.V.R. Shanmuganathan

ORDER

This criminal Original Petition has been filed to call for the records relating to the impugned order dated 09.05.2023 made in Crl.M.P.No.1250 of 2023 in C.C.No.151/2020 on the file of the learned



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Judicial Magistrate, Karaikudi and set aside the same.

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2. The petitioner was charge sheeted for the offence under Section 138 of Negotiable Instruments Act in C.C.No.151/2020 on the file of the learned Judicial Magistrate, Karaikudi. Originally, PW.1 was not cross examined and hence, filed an application to recall that was allowed.

3. The counsel for petitioner submitted that when the matter was posted for hearing on 10.03.2023 he was not appeared and hence, the matter was adjourned to 24.03.2023. Since the counsel has not reached the Court in time on that particular day, he sought short accommodation. but, the said petition was dismissed by the trial Judge on the ground that above said opportunity was not properly utilized by the petitioner. In such circumstances, the petitioner has filed the present petition.

4. On perusal of the records it is seen that the petitioner is facing serious charges, I am of the considered opinion that without giving an opportunity to cross examine the evidences a fair trial may not be possible. On that sole ground this Court is of the considered view that on stringent conditions, permission may be granted to the petitioner to cross



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examine the PW.1.

1) The petitioner is directed to pay a sum of Rs.10,000/- (Rupees Ten Thousand only) to the respondent, within a week from the date of receipt of a copy of this order.

2) On such deposit, the trial Court is directed to recall the witness P.W.1 for cross examination by fixing a particular date. On that date, the petitioner must cross examine the witnesses without fail. If any failure is noticed, then the further right to cross examine the witnesses will be forfeited.

5. With the above directions, this criminal original petition is allowed and the order passed by the trial Court, dated 09.05.2023 made in Crl.M.P.No.1250 of 2023 in C.C.No.151 of 2020 on the file of the learned Judicial Magistrate, Karaikudi, is hereby set aside.

13.06.2023

Index : Yes / No
Internet : Yes / No
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- To
1. The Judicial Magistrate, Karaikudi
 - 2.The Additional Public Prosecutor,

Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVA,J

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Order made in

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