



Crl.O.P.(MD) Nos.13074 & 13076 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.10.2023

CORAM:

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

Crl.O.P.(MD)Nos.13074 & 13076 of 2023

Rasammal ...Petitioner / Sole Accused in
both petitions

Vs.

M.Subbiah ...Respondent / Complainant

COMMON PRAYER : Criminal Original Petitions are filed under Section 482 of Cr.P.C, to call for the records in Crl.M.P.Nos.2292 & 2291 of 2023 in S.T.C.No. 76 of 2022 and set aside the order dated 03.05.2023 passed by the Fast Track Court (Magisterial Level), Thoothukudi.

For Petitioner : Mr.H.Elango

For Respondent : Mr.C.Gangai Amaran

COMMON ORDER

These Criminal Original Petitions have been filed to set aside the orders passed in Crl.M.P.Nos.2292 & 2291 of 2023 in S.T.C.No.76 of 2022, dated 03.05.2023 by the Fast Track Court (Magisterial Level), Thoothukudi.



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2.The petitioner is facing charges under Section 138 of Negotiable Instruments Act before the trial Court in S.T.C.No.76 of 2022. PW1 was examined in chief and cross examination was over on 11.01.2023. PW2 was examined in chief on 30.03.2023. Since the relevant document were not available on that day, he was unable to cross examine him. Thereafter only the present petitions have been filed stating that she want to recall PW1 & PW2 for the purpose of further cross examination, simply stating that only because of the delay in getting the certified copies of the document they are not in position to cross examine them. The learned counsel for the petitioner would submit that only to drag on the proceedings, these petitions have been filed.

3.Though chief examination of PW1 and PW2 were already over and even PW1 was cross examined at length by the petitioner, considering the fact that the matter is of recent one and considering the grievance expressed by the petitioner that relevant document has been received only now, this Court is of the view that one more opportunity may be given to recall the witnesses PW1 for further cross examination and PW2 for cross examination.



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4. On that sole ground, the impugned orders passed in Crl.M.P.Nos.2292 & 2291 of 2023 in S.T.C.No.76 of 2022, dated 03.05.2023 by the Fast Track Court (Magisterial Level), Thoothukudi, are hereby set aside and this criminal original petitions are **allowed** with following stringent conditions.

1) The petitioner must deposit a sum of Rs.5,000/- (Rupees Five Thousand only) as cost to the each of the witnesses namely PW1 & PW2 to the credit of S.T.C.No.76 of 2022, before the trial Court, within a period of fifteen days from the date of receipt of a copy of this order.

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

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NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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1.The Judicial Magistrate, Fast Track Court (Magisterial Level),
Thoothukudi.



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G.ILANGO VAN. J.

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