



WEB COPY



Crl.O.P.(MD)No.16371 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **15.03.2023**

CORAM:

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

Crl.O.P.(MD) No.16371 of 2022
and Crl.M.P.(MD).No.10894 of 2022

P. Navaneethakrishnan

... Petitioner/Accused

Vs.

1. S.Chokkalingam

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to set aside the order dated 28.07.2022 in Cr.M.P.No. 2697/2022 in C.C.No.11/2020 on the file of Fast Track Court (The Judicial Magistrate Level), Kovilpati, Thoothukudi District.

For petitioner : Ms.Devasena

For Respondent : Mr.V.Karthikeyan

ORDER

This criminal original petition has been filed to set aside the order dated 28.07.2022 in Cr.M.P.No. 2697/2022 in C.C.No.11/2020 on the file of Fast Track Court (The Judicial Magistrate Level), Kovilpati, Thoothukudi District.



WEB COPY

2.The petitioner is facing charges under Section 138 of the Negotiable Instruments Act, before the trial Court in C.C.No.11 of 2020. During the course of trial process, PW1 was examined in chief on 16.03.2022 and the matter was adjourned for cross examination. Because of lapse on the side of the petitioner, the cross examination was closed by the Court. Later the petitioner has filed a petition on 06.07.2022 seeking recall of the above said witness for the purpose of cross examination, that came to be dismissed by the trial Court, stating that no proper or sufficient reason have been given to recall the witness. Questioning the same, this petition has been filed.

3.The learned counsel for the respondent would submit that to drag on the above said proceedings only, the petition has been filed and the petitioner is not co-operating with the trial Court to complete the trial process and he wants the cheque amount Rs.3.50 lakhs to be deposited by the petitioner.

4.The case is of the year 2020 and chief examination was undertaken only on 16.03.2023. Since the petitioner is facing charges under Section 138 of the Negotiable Instruments Act, one more



opportunity may be given to him to prove his case. On that sole ground, I am of the considered view that the petition is liable to be allowed with the following stringent conditions.

- 1) The petitioner must deposit a sum of Rs.5,000/- (Rupees Two Thousand only) as cost to the witnesses PW1 to the credit of C.C.No.11 of 2020 before the trial Court, within a period of 15 days 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 witness without fail. If any failure is noticed, then the further right to cross examine the witness will be forfeited.

5.A request has also been made by the respondent for direction to the trial Court to expedite the trial process. Accordingly, the the trial Court shall expedite the trial process in this case and conclude the same within a period of four months from the date of receipt of a copy of this order.



Crl.O.P.(MD)No.16371 of 2022

6. With the aforesaid directions, this criminal original petition is disposed of. Consequently, connected miscellaneous petition is closed.

15.03.2023

Index : Yes/No

Internet : Yes/No

TM

To

1. The Judicial Magistrate, Fast Track Court (Judicial Magistrate Level),
Kovilpatti,
Thoothukudi District.

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



WEB COPY



Crl.O.P.(MD)No.16371 of 2022

G.ILANGOVA. J.

TM

Crl.O.P.(MD)No.16371 of 2022

15.03.2023