



Crl.O.P.(MD).No.21428 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED:05.12.2023

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

Crl.O.P.(MD).No.21428 of 2023
and Crl.M.P.(MD).No.15123 of 2023

A.Subramaniyan

... Petitioner

Vs.

C.Martin

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to set aside the order, passed by the learned Judicial Magistrate, Additional Mahila Court (Magistrate Level), Pudukottai in Cr.MP.No.615/2023 in STC No.3/2023 dt.27/9/2023.

For Petitioner : Mr.G.Thaveethu

ORDER

This Criminal Original Petition filed to set aside the order, passed by the learned Judicial Magistrate, Additional Mahila Court (Magistrate Level), Pudukottai in Cr.MP.No.615/2023 in STC No.3 of 2023, dated 27.09.2023.



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2.The petitioner is facing charges under Section 138 of NI Act before the trial Court. During the trial process, the petitioner want to examine the Bank Manager, IDBI bank, Pudukkottai. On the date of hearing, the Bank Manager appeared before the trial Court. However, the learned counsel for the petitioner did not appear due to his illness. Therefore, the said Bank Manager could not be examined on that date. In view of the lapse on the part of the petitioner, the trial Court thought it fit to close the evidence. The petitioner filed a petition to examine the Bank Manager. The trial Court dismissed the same on the ground that the reasons adduced in the petition are not acceptable.

3.Challenging the same, this petition has been filed on the ground that the petitioner is facing charges under Section 138 of N.I. Act. He got every right to substantiate his defence. For the purpose of proving his innocence only he filed the petition to examine the Bank Manager, IDBI bank, Pudukkottai. However, on the date of evidence it appears that the counsel on record not appeared. No doubt, it is lapse on the side petitioner. However, for that purpose the petitioner should not be penalised. The inconvenience caused to the witness can be



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compensated by way of cost.

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4.Considering the facts and circumstances of the case and the reasons adduced in the petition, this Court is inclined to set aside the impugned order and one more opportunity is given to the petitioner to recall the evidence of Bank Manager, IDBI bank, Pudukkottai on payment of cost of Rs.5,000/- (Rupees five thousand only) to the respondent/complainant within a week, from the date fixed by the trial Court. On that date, the petitioner is directed to examine the said witness, failing which, the right of the petitioner shall be forfeited.

5.Accordingly, this criminal original petition stands allowed. Consequently, connected miscellaneous petition is closed.

05.12.2023

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

To
The Judicial Magistrate,
Additional Mahila Court (Magistrate Level), Pudukottai

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G.ILANGOVAN,J.

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ORDER IN
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and Crl.M.P.(MD).No.15123 of 2023

05.12.2023