



Crl.O.P.(MD).No.20265 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.11.2023

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

Crl.O.P.(MD).No.20265 of 2023

D.Loganathan

... Petitioner

Vs.

C.Nagarajan

...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 No.II, Tiruchirappalli in Cr.M.P.No.10663 of 2023 in C.C.No.28 of 2017 dated on 18.07.2023.

For Petitioner : Mr.P.Aju Tagore

ORDER

This Criminal Original Petition has been filed to set aside the order passed by the Learned Judicial Magistrate No.II, Tiruchirappalli in Cr.M.P.No.10663 of 2023 in C.C.No.28 of 2017 dated on 18.07.2023.

2.The petitioner is facing charges under Section 138 of Negotiable



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Instruments Act, before the trial Court. First chance was given to the petitioner to recall PW1 and cross examination on his part, that was not properly used by him by depositing the cost, hence it was dismissed. Another application came to be filed by the petitioner seeking second chance, that was not considered by the trial Court in Cr.M.P.No.10663 of 2023 in C.C.No.28 of 2017, setting out the lapse on the part of the petitioner. The matter is of the year 2017. Because of the lethargic attitude of the petitioner, trial could not be completed. Such sort of attitude cannot be encouraged. However, the learned counsel for the petitioner would submit that the final opportunity may be given to the petitioner.

3.On that sole ground, the impugned order passed by the Learned Judicial Magistrate No.II, Tiruchirappalli in Cr.M.P.No.10663 of 2023 in C.C.No.28 of 2017 dated on 18.07.2023, is hereby set aside and this criminal original petition is **allowed** with following stringent conditions.

- 1) The petitioner must deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as cost to the each of the witness namely PW1, to the credit of



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C.C.No.28 of 2017, 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 witness P.W.1 for cross examination by fixing a particular date. On that date, the petitioner must cross examine the above said witness without fail. If any failure is noticed, then the further right to cross examine the witness will be forfeited.

10.11.2023

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

To

- 1.The Judicial Magistrate No.II, Tiruchirappalli.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGOVAN,J.

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