



Crl.O.P.(MD).No.21228 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2023

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

Crl.O.P.(MD).No.21228 of 2023
and Crl.M.P.(MD).No.16613 of 2023

N.Umadevi Narayanan

... Petitioner

Vs.

S.Thiruvengadam

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to set aside the order dated 07.07.2023 in Cr.M.P.No.1283/2023 in S.T.C.No.11/2019 on the file of the Learned Judicial Magistrate, Thirumangalam, Madurai district.

For Petitioner : Mrs.S.Devasena

ORDER

This criminal original petition has been filed to set aside the order dated 07.07.2023 in Cr.M.P.No.1283/2023 in S.T.C.No.11/2019 on the file of the Learned Judicial Magistrate, Thirumangalam, Madurai district.



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2.The learned counsel for the petitioner would submit that the petitioner is the defacto complainant in this case. He lodged the present private complaint before the trial Court for the offence punishable under Section 138 of the Negotiable Instruments Act. She herself was examined as PW1 and cross examination was also done by the accused. After that PW2 was examined in chief on 23.11.2022. On that day, since her counsel on record before the trial Court was held up before the Madurai Bench of Madras High Court, his Junior counsel conducted the examination of PW2. But, some vital points were omitted to be elicited from the PW2, who being the official from the concerned Bank. Therefore, later, he filed recall application for further examination of the PW2 . It came to be dismissed by the trial Court on the ground that to drag on the proceedings only belated application was filed by the petitioner to recall the PW2. If further examination is not done, then the petitioner will put to irreparable loss.

3.Considering the submissions made by the learned counsel for the petitioner, this Court is of the view that one more opportunity may be given to the petitioner.



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4. On that sole ground, the impugned order, dated 07.07.2023 in Cr.M.P.No.1283/2023 in S.T.C.No.11/2019 on the file of the Learned Judicial Magistrate, Thirumangalam, Madurai district, is hereby set aside and this criminal original petition is **allowed** with following stringent conditions.

1) The petitioner must deposit a sum of Rs.5,000/- (Rupees Five Thousand only) as cost to the witness namely PW2 to the credit of S.T.C.No.11 of 2019, 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.2 for further examination by fixing a particular date. On that date, the petitioner must examine the above said witness without fail. If any failure is noticed, then the further right to re-examine the witness will be forfeited.

Consequently, connected miscellaneous petition is closed.

27.11.2023



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

To

- 1.The Judicial Magistrate, Thirumangalam, Madurai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN,J.

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