



Crl.O.P.(MD).No.22598 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED:15.12.2023

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

Crl.O.P.(MD).No.22598 of 2023

M.Marie Issack

... Petitioner

Vs

Muthusamy

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to set aside the order passed in Cr.M.P.No. 9486 of 2023 in S.T.C.No.517 of 2021, dated 17.11.2023 on the file of the learned Judicial Magistrate, Fast Track Court @ Magisterial Level, Karur and to recall the witness PW 1 for re-examination.

For Petitioner : Mr.M.Karunanithi

ORDER

This Criminal Original Petition filed to set aside the order passed in Cr.M.P.No.9486 of 2023 in S.T.C.No.517 of 2021, dated 17.11.2023 on the file of the learned Judicial Magistrate, Fast Track Court @ Magisterial Level, Karur and to recall the witness PW 1 for re-examination.



Crl.O.P.(MD).No.22598 of 2023

WEB COPY

2.The petitioner is facing charges under Section 138 of NI Act before the trial Court. During the course of trial, PW1 was examined both in chief and cross. After sometime the petitioner made an application in Crl.M.P.No.9486 of 2023 seeking to recall of PW1 for further cross-examination. That was dismissed by the Court below on 17.11.2023 stating that no proper reason has been stated by the petitioner to recall PW1 and the document, which sought to be relied upon by the petitioner has not been produced before the Court below.

3.Challenging the order of dismissal, this petition has been filed by the petitioner. Even today, the petitioner has not produced the alleged document to be relied upon by the petitioner before this Court.

4.According to the learned counsel for the petitioner it is stated by the learned counsel for the petitioner that a document, ie., deed of acknowledgement, which was executed between the petitioner and one Raj Kumar is available with the petitioner. Only the said Rajkumar has



Crl.O.P.(MD).No.22598 of 2023

received money from the complainant and the petitioner never involved in the alleged transaction.

5.Whatever it may be, it is a matter for consideration by the trial Court. No doubt, there is lapse on the side petitioner. However, the petitioner has got every right to substantiate his defence. For the purpose of proving his innocence only he filed the petition. The inconvenience caused to the witness can be compensated by way of cost.

6.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 PW1 on payment of cost of Rs.5,000/- (Rupees five thousand only) to PW1, 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.



Crl.O.P.(MD).No.22598 of 2023

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

15.12.2023

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

To

The Judicial Magistrate,
Fast Track Court @ Magisterial Level, Karur



WEB COPY



CrI.O.P.(MD).No.22598 of 2023

G.ILANGO VAN,J.

PNM

ORDER IN
CrI.O.P.(MD).No.22598 of 2023

15.12.2023