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Crl.O.P.(MD)No.23125 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.12.2023**

CORAM:

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

Crl.O.P.(MD) No.23125 of 2023

Ramachandran

... Petitioner / Accused

Vs.

Sengutuvan
Authorised Representative
of the Managing Director
A.M.Gopalan,
M/s.Sree Gogulam Chit Fund & Finance
Company private limited Kumbakonam,
67-A, Nageshwaran North street

... Respondent / Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the order dated 11.10.2023 made in Crl.M.P.No.2953 of 2023 in S.T.C.No.2129 of 2019 pending trial on the file of the learned Judicial Magistrate-I, Kumbakonam and set aside the same.

For Petitioner : Mr.D.Venkatachalam



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ORDER

This Criminal Original Petition is filed to call for the records pertaining to the order dated 11.10.2023 made in CrI.M.P.No.2953 of 2023 in S.T.C.No.2129 of 2019 pending trial on the file of the learned Judicial Magistrate-I, Kumbakonam and set aside the same.

2.The petitioner is facing charges under Section 138 of Negotiable Instruments Act before the trial Court. P.W.1 was examined in chief on 17.05.2022, so that it was posted for cross examination of the complainant on various dates. Finally, it was closed by the trial Court. Later, he filed an application under Section 311 of Cr.P.C., in Cr.M.P.No. 2953 of 2023 seeking recall of P.W.1 for cross examination. The respondent did not file any counter. But that application came to be dismissed by the trial Court on 11.10.2023, against which this petitioner has preferred this petition.

3. The case is of the year 2017. In spite of lapse of six years, the trial could not be completed for the unknown reasons. The petitioner ought to have co-operated with the trial Court to complete the process of trial but he failed to do so. No doubt there is a lapse on the part of the



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petitioner in not cross examining the witnesses on the date of chief examination. But without cross examination, fair justice may not be possible. On the sole ground, the petition filed by the petitioner to recall P.W.1, ought to have been allowed.

4. On the sole ground, the order is set aside and the petitioner is directed to deposit a sum of Rs.5,000/-(Rupees Five Thousand only) to the credit of the crime number before the trial Court. On such deposit is being made, the trial Court is directed to fix a date for cross examination. On the date fixed, the petitioner must cross examine the witness without fail. The trial Court is directed to complete the trial within a period of four months from the date of receipt of a copy of this order, considering the oldness of the matter.

5. With this direction, this Criminal Original Petition is disposed of.

21.12.2023

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

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