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Crl.O.P.Nos.2093 and 2095 of 2024
and
Crl.M.P.No.1512 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2024

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THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.Nos.2093 and 2095 of 2024
and
Crl.M.P.No.1512 of 2024

T.R.Muthukumarasamy ... Petitioner in both Crl.O.Ps.
Vs.

P.Shanmugavel ... Respondent in both Crl.O.Ps

Prayer: Criminal Original Petitions are filed under Section 482 of Criminal Procedure Code, pleaded to set aside the order dated 12.10.2023 made in Crl.M.P.Nos.3675 of 2023 and 3676 of 2023 in S.T.C.No.94 of 2019 on the file of the Judicial Magistrate Court No.II, Bhavani.

For Petitioner : Mr.M.Guruprasad
in both Crl.O.Ps

For Respondent : Mr.C.Kulanthaivel
in both Crl.O.Ps



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COMMON ORDER

These Criminal Original Petitions are filed by the accused being aggrieved by the dismissal order of the trial Court in Crl.M.P.Nos.3675 of 2023 and 3676 of 2023 in S.T.C.No.94 of 2019 dated 12.10.2023.

2. The petition in Crl.M.P.No.1433 of 2022 was filed by the petitioner/accused and the same was allowed on 24.08.2022 and consequent to this order, the Bank Manager of Lakshmi Vilas Bank, K.N.Palayam Branch was called and examined and when summons were issued to the Deputy Superintendent of Police, Bhavani, and the letter sent by their Office was received by the learned Magistrate, stating that there are no records in the Office of the Deputy Superintendent of Police, Bhavani to show regarding the registration of any complaint/F.I.R against Shumugavel and Muthukumarasamy and no C.S.R is produced or the F.I.R has not been registered against their names and therefore, the purpose for which the petitioner wants to summon the Deputy Superintendent of Police, Bhavani based on the admission made by P.W.1 during the cross examination, was found to be unnecessary and



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hence, the learned Judicial Magistrate-II, Bhavani vide order dated 12.10.2024 had dismissed Crl.M.P.No.3675 of 2023 filed for re-opening the defence side evidence and had also dismissed Crl.M.P.No.3676 of 2023 filed for examining the Deputy Superintendent of Police, Bhavani as defence side witness. Being aggrieved by these two orders, Crl.O.P.Nos.2093 and 2095 of 2024 are filed before this Court. Having allowed Crl.M.P.No.1433 of 2022 in S.T.C.No.94 of 2019 was filed under Section 254(2) Cr.P.C., on condition that the learned Judicial Magistrate ought to have permitted the petitioner/accused to summon the Deputy Superintendent of Police, Bhavani to substantiate the defence regarding the complaint lodged by P.W.1, which has been admitted by him during cross examination.

3. Learned counsel appearing for the respondent/complainant submitted that though P.W.1, in the cross examination, admitted that he had lodged a complaint before the Office of the Deputy Superintendent of Police, subsequently, the same has been retracted and in any event, the alleged complaint before the Office of Deputy Superintendent of Police, Bhavani, has no relevance to the complaint on hand.



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4. This Court finds that when the Office of the Deputy Superintendent of Police, Bhavani in writing, has specifically stated that there is no complaint/F.I.R registered in the year 2019 in respect of Shanmugavel and Muthukumarasamy, who are the complainant and accused respectively, to the case in hand. There is no necessity to further summon them and examine. It will be only in the nature of roving enquiry and would be futile. Since the conclusion arrived at by the trial Court is a just decision, summoning of Deputy Superintendent of Police, Bhavani is not required in the light of the communication from the Office of Deputy Superintendent of Police that no petition or complaint is pending between the parties. This Court finds that the impugned order of the trial Court is in accordance with law and facts. These Criminal Original Petitions are dismissed. Consequently, connected miscellaneous petition is closed.

5. The trial Court is directed to complete the trial as expeditiously as possible. If there are any contradictions in the statement of P.W.1 and documents produced by the Office of Deputy Superintendent of Police,



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Bhavani, which has been discussed above, it is open to the petitioner/accused to highlight the contradictions in the course of trial and seek necessary benefit.

06.09.2024

Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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To

The Judicial Magistrate Court No.II,
Bhavani.



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Dr.G.JAYACHANDRAN, J.

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