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CrI.R.C.No.469 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.R.C.No.469 of 2024

and

CrI.M.P.No.4503 of 2024

M.Pandian

... Petitioner

Vs.

Baskaran

... Respondent

PRAYER : Criminal Revision Petition filed under Section 397 r/w. 401 of the code of Criminal Procedure, to set aside the impugned order dated 09.01.2024 passed in C.M.P.No.6518 of 2023 in S.T.C.No.585 of 2022 by the learned Judicial Magistrate, Gingee.

For Petitioner	:	Mr.C.Munusamy
For Respondent	:	Mr.Ashwin Prashanth for M/s.Pass Associates

ORDER

The criminal revision case is filed against the impugned order dated 09.01.2024 passed in C.M.P.No.6518 of 2023 in S.T.C.No.585 of 2022 by the learned Judicial Magistrate, Gingee.

2. The case of the petitioner is that the petitioner is an accused in



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the complaint filed by the respondent under Section 138 of Negotiable Instruments Act which was taken on file in S.T.C.No.585 of 2022. After completion of the complainant's side witness, the matter was posted for questioning the petitioner's side witness. At the time, the petitioner has filed a petition in Crl.M.P.No.6518 of 2023 for examination of defence witness, namely, Nepolean and the same was dismissed. Challenging the same, the present petition has been filed.

3. The learned counsel appearing for the petitioner submits that mere examination of defence witness will not cause any prejudice to the interest of the respondent / complainant and he can very well cross-examine the defence witness. However, the said aspect was not considered by the trial Court and the trial Court dismissed the petition on the ground that the petitioner was intending to drag on the proceedings, without providing sufficient opportunity to the petitioner to put forth his case by examining the defence witness, which is in violation of principles of natural justice. Hence, this Court may set aside the impugned order and fix a date for appearance of



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defence witness and on that date, the petitioner will examine the defence witness and the respondent may also cross-examine the defence witness.

4. The learned counsel appearing for the respondent has no objection for this petition being allowed and also conceded to the submissions made by the learned counsel appearing for the petitioner. He further submitted that, if at all the petitioner want to cross-examine the defence witness, he has to file a petition under Section 251 of Cr.P.C.

5. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

6. It appears that the respondent has made a complaint against the petitioner under Section 138 of Negotiable Instruments Act before the learned Judicial Magistrate, Gingee and the same was taken on file in S.T.C.No.56 of 2022, wherein, the petitioner has filed a petition in Crl.M.P.No.6518 of 2023 for examination of the aforementioned witness and



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adducing oral evidence and it was dismissed on the ground that the petitioner was intending to drag on the proceedings. However, in order to prove his innocence, an opportunity must be given to him to put forth his case by examining defence witness and marking the documents. Instead, denial of opportunity to the person to put forth his case is unjustifiable. Therefore, in order to give an opportunity to the petitioner to put forth his case, this Court is inclined to set aside the order dated 09.01.2024 passed in Crl.M.P.No.6518 of 2023 in S.T.C.No.585 of 2022 and accordingly, it is set aside on the following directions:

(i) the petitioner is directed to produce the defence witness and the relevant documents within a period of two weeks from the date of receipt of a copy of this order before the trial Court;

(ii) on that date, the petitioner shall examine the defence witness and the respondent is also directed to cross-examine the defence witness; and

(iii) after completion of cross-examination, the trial Court is



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directed to dispose of S.T.C.No.585 of 2022 within a period of three months from the date of cross-examination of defence witness.

7. Accordingly, the Criminal Revision Case is allowed.

Consequently, connected miscellaneous petition is closed.

30.07.2024

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

vji

To

The learned Judicial Magistrate,
Gingee.



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M.DHANDAPANI, J.

vji

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