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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2024

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.7735 of 2024

M/s.Sri Amman Agencies
Rep. By its Proprietor,
G.Rajkumar,
Melaveethi,
Thiruvengkadu, Sirkali.

...Petitioner

-Vs-

S.Senthil Mohan

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to the common order in CMP.No.788 of 2024 dated 13.02.2024 passed by the learned Judicial Magistrate, Fast Track Court, (Magisterial Level) Poonamallee set aside the same.

For Petitioner : Mr.D.Gubendra Gunabalan

ORDER

This Criminal Original Petition has been filed to quash the common order in CMP.No.788 of 2024 dated 13.02.2024 passed by the learned Judicial Magistrate, Fast Track Court, (Magisterial Level) Poonamallee.

2. Heard the learned counsel appearing for the petitioner and

<https://www.mhc.tn.gov.in/judis> perused the materials available on record. Since no adverse order is



passed against the respondent, notice to the respondents is dispensed with.

3. It is the case of the complainant that the petitioner is the accused and the respondent is the complainant. The respondent used to buy prawn and feeds from the accused. The respondent has paid a sum of Rs.7,70,000/- to the petitioner as advance, but the accused was unable to supply whenever the respondent places orders. The petitioner neither supplied the prawns nor returned the money. When the respondent approached the petitioner, he issued a cheque for a sum of Rs.7,70,000/- dated 24.02.2021. On 02.03.2021, the respondent deposited the said cheque for collection but the same was returned with an endorsement "exceeds arrangement" to the complainant, to that effect a memo was issued by the bank on 03.03.2021.

4. Thereafter, the respondent filed a complainant under Section 138 and 142 of the NI Act before the learned Judicial Magistrate, FTC, Poonamallee and the same was taken on file in STC.No.516/2021. After completion of the evidence on the side of the complainant, the case was posted for defense evidence. Since the accused does not appear



continuously, the trial Court was closed the evidence for the defense side and posted the case for argument on 16.10.2023. On that day, the petitioner filed a petition under Section 311 and 315 Cr.P.C. And the same was allowed and the case was posted for defense side evidence on various dates. Again, the petitioner was continuously absent, the trial Court once again closed the evidence for defense. On 21.03.2024, the petitioner has again filed a petition in CMP.No.788 of 2024 for defense evidence and the same was dismissed. Challenging the said order, the petitioner has filed the present petition before this Court.

5.The learned counsel appearing for the petitioner submitted that the petitioner has some valid evidence to prove his case. Hence, this Court may quash the order passed by the trial Court and allow this petition and direct the trial Court to reopen the defense side evidence.

6. The facts of the case are not in dispute. The relationship of the parties are also not in dispute. The learned Judge, after completion of the complainant side evidence, the matter was adjourned on on various dates and the trial Court has given sufficient opportunity to the petitioner herein. Since the petitioner have not continuously appeared before the



trial for defense evidence, the trial Court has rightly dismissed the petition which was filed by the petitioner for reopen the defense evidence. In order to drag on the case, the petitioner has continuously not appeared before the trial Court and filing the miscellaneous petition for reopen the defense side evidence, which is not sustainable. This Court does not find any merit in the present petition and the same is liable to be dismissed.

7. Accordingly, the Crl. Original Petition is dismissed.

01.04.2024

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Index : Yes/No

Internet : Yes/No



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To

1. Judicial Magistrate, Fast Track Court,
(Magisterial Level) Poonamallee.

2. The Public Prosecutor,
High Court, Madras.



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M.DHANDAPANI, J.

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