



Crl.R.C.No.797 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.797 of 2024

Vidya Nagarajan @ Vidhya

... Petitioner

Vs.

Prabhavathi Sankar

... Respondent

PRAYER : Criminal Revision Petition filed under Section 397 r/w. 401 of the code of Criminal Procedure, to set aside the impugned order passed in C.M.P.No.9726 of 2023 on the file of the learned Judicial Magistrate, Fast Track Court No.1, Erode, dated 03.02.2024 in S.T.C.No.330 of 2022.

For Petitioner : Mr.C.S.Saravanan

For Respondent : Mr.J.Ranjith Kumar



Crl.R.C.No.797 of 2024

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ORDER

The Criminal Revision Case is filed against the impugned order dated 03.02.2024 passed in C.M.P.No.9726 of 2023 in S.T.C.No.330 of 2022 by the learned Judicial Magistrate, Fast Track Court No.1, Erode.

2. The learned counsel appearing for the petitioner submits that the petitioner is an accused in the complaint filed by the respondent under Sections 138 and 141 r/w. 142 of Negotiable Instruments Act which was taken on file in S.T.C.No.330 of 2022. After complainant's side witnesses is over, the petitioner has filed a petition under Section 254(2) Cr.P.C to examine the witnesses, namely, S.K.Saranya, who is the wife of Senthil Kumar (D.W.1), however, the trial Court dismissed the petition, which is in violation of principles of natural justice. Challenging the same, the present petition has been filed.



Crl.R.C.No.797 of 2024

WEB COPY

3. The learned counsel appearing for the petitioner submits that in order to prove her case, the petitioner is entitled to examine any witness as defence witnesses. Therefore, this Court may set aside the impugned order and fix a date for examination of defence witnesses.

4. The learned counsel appearing for the respondent has no objection to the submission made by the learned counsel appearing for the respondent and submits that the respondent will also cross-examine the defence witnesses on the day fixed by this Court for examination of defence witnesses by the petitioner.

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 Sections 138 and 141 r/w. 142 of Negotiable Instruments Act before the learned Judicial Magistrate, Fast Track Court No.1, Erode



Crl.R.C.No.797 of 2024

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and the same was taken on file in S.T.C.No.330 of 2022, wherein, the petitioner has filed a petition in C.M.P.No.9726 of 2023 for examination of the petition mentioned witnesses and it was dismissed on the ground that mere examination of petition mentioned witnesses, namely, S.K.Saranya, wife of Senthil Kumar (D.W.1), will not serve any purpose, since the petitioner/complainant denied benami transaction. However, in order to prove her innocence, an opportunity must be given to the petitioner to put forth her case by examining the defence witnesses. Instead, denial of opportunity to the person to put forth her case is unjustifiable. Therefore, in order to give an opportunity to the petitioner to put forth her case, this Court is inclined to set aside the order dated 03.02.2024 passed in Cr.M.P.No.9726 of 2023 in S.T.C.No.330 of 2022 by the learned Judicial Magistrate, Fast Track Court No.1, Erode and accordingly, it is set aside on the following directions:

(i) the petitioner is directed to produce the defence witnesses and the relevant documents in the next date of hearing fixed by the trial Court;



Crl.R.C.No.797 of 2024

WEB COPY

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

(iii) after completion of cross-examination, the trial Court is directed to dispose of S.T.C.No.330 of 2022 within a period of three months from the date of cross-examination of defence witnesses.

7. Accordingly, the Criminal Revision Case is allowed.

02.07.2024

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No
ssb

To

The learned Judicial Magistrate, Fast Track Court No.1, Erode.

M.DHANDAPANI, J.



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Crl.R.C.No.797 of 2024

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Crl.R.C.No.797 of 2024

02.07.2024