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Crl.R.C.No.1031 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**Crl.R.C.No.1031 of 2024
and Crl.M.P.No.8762 of 2024**

1.Sri Velmurugan Startch Industries,
By its Partner and Authorized Signatory,
R.Muthuselvi.

2.R.Muthuselvi

... Petitioners

Vs.

R.Duraisamy

... 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 06.04.2023 passed in C.M.P.No.1022 of 2023 in C.C.No.56 of 2021 by the learned Judicial Magistrate, Rasipuram.

For Petitioners : Mr.N.Suresh

For Respondent : Mr.S.Senthil



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ORDER

The Criminal Revision Case is filed against the impugned order dated 06.04.2023 passed in C.M.P.No.1022 of 2023 in C.C.No.56 of 2021 by the learned Judicial Magistrate, Rasipuram.

2. The learned counsel appearing for the petitioners submits that the petitioners are accused in the complaint filed by the respondent under Section 138 of Negotiable Instruments Act which was taken on file in C.C.No.56 of 2021. After complainant's side witnesses is over, the petitioner has filed a petition under Section 254(2) Cr.P.C to adduce oral evidence and examine the defence witnesses, namely, D.Kalaimani, T.Vinoth and M.Selvam, however, the trial Court dismissed the petition on the ground that the petitioners were intending to drag on the proceedings, without providing sufficient opportunity to the petitioners to put forth their case by examining the defence witnesses and marking the documents, which is in violation of principles of natural justice. Challenging the same, the present petition has been filed.



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3. The learned counsel appearing for the respondent submits that this Court may fix a date for examination of defence witnesses before the trial Court and on that date, the respondent will also cross-examine the defence witnesses.

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

5. It appears that the respondent has made a complaint against the petitioners under Section 138 of Negotiable Instruments Act before the learned Judicial Magistrate, Rasipuram and the same was taken on file in C.C.No.56 of 2021, wherein, the petitioner has filed a petition in Crl.M.P.No.1022 of 2023 for examination of the aforementioned witnesses and adducing oral evidence and it was dismissed on the ground that the petitioners were intending to drag on the proceedings. However, in order to prove their innocence, an opportunity must be given to them to put forth



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their case by examining defence witnesses and marking the documents.

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Instead, denial of opportunity to the person to put forth his case is unjustifiable. Therefore, in order to give an opportunity to the petitioners to put forth their case, this Court is inclined to set aside the order dated 06.04.2023 passed in Cr.M.P.No.1022 of 2022 in C.C.No.56 of 2021 and accordingly, it is set aside on the following directions:

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

(ii) on that date, the petitioners 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 C.C.No.56 of 2021 within a period of three months from the date of cross-examination of defence witnesses.



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6. Accordingly, the Criminal Revision Case is allowed.

Consequently, connected miscellaneous petition is closed.

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NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

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To

The learned Judicial Magistrate, Rasipuram.



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M.DHANDAPANI, J.

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