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CrI.O.P.No.11620 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.11620 of 2024
& CrI.M.P.No.7686 of 2024

S.Chandrasekar.

... Petitioner/Single Accused

/versus/

K.Pushpam.

... Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set aside the order dated 25.04.2024 made in CrI.M.P.No.3420/2024 in C.C.No.103 of 2017 on the file of the Learned Judicial Magistrate (Fast Track) Court, Tiruppur.

For Petitioner : Mr.P.M.Duraiswamy

For Respondent : No appearance

ORDER

The petitioner herein is the accused in C.C.No.103 of 2017. At the fag end of the trial, the petitioner has filed an application to reopen and adduce evidence in defence.



CrI.O.P.No.11620 of 2024

2. The trial Court, after considering the facts of the case that the case is in connection with dishonour of cheque dated 05.03.2015 issued for Rs.10 lakhs to the complainant and since the cheque was dishonoured, complaint has been initiated and case is pending for seven years. After trial, the case was adjourned for judgment on 24.01.2024, the accused/petitioner filed an application to reopen and the same was allowed and the case was adjourned from time to time for various days and again matter was reserved for judgment on 06.04.2024. At that juncture, further application been filed for reopen and to examine the complainant as well as one Prakash as defence witness. When the application was heard, the Judicial Magistrate found that even on the earlier occasion when Court has reopened the case and afforded opportunity to the accused, he has not availed that opportunity but dragged the proceedings without participating and therefore, the petitioner/accused is not entitled for further indulgence to reopen the case.

3. Being aggrieved by the said order dated 25.04.2024, the accused has approached this Court during vacation and had obtained interim stay of further proceedings till 05.06.2024 since the matter not listed, interim stay was not extended. Hence, application is filed for extension of interim order.



CrI.O.P.No.11620 of 2024

4. By that time, the respondent also been served privately and

entered appearance through his Counsel.

5. This Court, on perusal of the record finds that it is a case of cheque dishonour pending for more than 7 years. The accused been given adequate opportunity at all stages, unfortunately he has not availed it and the same been recorded in the impugned order as a reason for dismissing the second petition for reopening the trial.

6. The Learned Counsel for the petitioner submits that one chance may be given to the petitioner to marshal his witness, which he will do on the same day. If the said chance is denied, the petitioner will be put to great hardship. Further, the Learned Counsel for the petitioner submits that the case is posted on 02.07.2024, since there was stay of the proceedings. From the notes of Lower Court, it appears that the matter stands at the stage of pronouncing judgment.

7. Considering the facts and other circumstances, this Court is of the view that the petition to reopen, which has been dismissed by the trial Court shall be interfered in a restricted manner. Accordingly, this Criminal Original



CrI.O.P.No.11620 of 2024

Petition is allowed. The petition to reopen is allowed. The petitioner shall appear before the trial Court on 19.06.2024 after causing notice to the complainant, subject to the convenience of the court. The process of examining the accused and his witness shall be completed on or before 02.07.2024 and thereafter, the trial Court shall proceed with pronouncing judgment. A cost of Rs.4,000/- shall be paid to the complainant on or before 19.06.2024.

8. With the above observation, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

12.06.2024

Index : Yes/No.
Neutral Citation : Yes/No.
bsm

Copy to:-

1. The Judicial Magistrate (Fast Track) Court, Tiruppur.



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Crl.O.P.No.11620 of 2024

Dr.G.JAYACHANDRAN, J.

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Crl.O.P.No.11620 of 2024
& Crl.M.P.No.7686 of 2024

12.06.2024