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Crl.OP.Nos.13278 and 13280 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2024

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THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.OP.Nos.13278 and 13280 of 2024

and

Crl.MP.Nos.8069 and 8071 of 2024

Kamalakannan

... Petitioner
(in both Crl.OPs)

Vs.

M/s.Deva Matha Chits India Private Ltd.,
Pollachi Branch,
Rep by Uthiravasagan

... Respondent
(in both Crl.OPs)

COMMON PRAYER: Criminal Original Petitions are filed under Section 482 of Criminal Procedure Code, to set aside the order passed by the learned Judicial Magistrate-II, Pollachi in C.M.P.Nos.5948 and 5947 of 2023 respectively in C.C.No.118 of 2021 dated 15.05.2024 and to allow these original petitions.

For Petitioner : Mr.M.Saravana Kumar

For Respondent : Mr.S.Udayakumar
Government Advocate (Crl.Side)

COMMON ORDER

The petitioner herein is the accused in a private complaint initiated under Section 138 of Negotiable Instruments Act. After examination of



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complainant's side witnesses and when the matter was posted for further proceedings, the petitioner/accused has thought it fit to file an application to re-call the complainant who was examined as P.W.1. The trial Court, after considering the objections to the re-call petition after recording the fact that though the complainant was examined in chief as P.W.1 on 14.08.2023 and the matter was adjourned for his cross examination, but, the accused had failed to cross examine, inclined to provide opportunity to him and directed to deposit 20% of the cheque amount as a condition to re-call the complainant and granted time to deposit 20% of the cheque amount on or before 15.05.2024. On that day, when the matter was called, the application was dismissed for non compliance of the condition stated above. Against this Order, the present criminal original petitions are filed.

2. The learned counsel for the petitioner states that the conditional order passed by the Court was not properly communicated to the petitioner/accused and therefore, the same could not be complied with. He further states that the matter is now posted for defence side witnesses. The accused has also taken out an application under Section 315 of Cr.P.C. Whether the conditional order passed by the trial Court on 29.04.2024 to deposit 20% of the cheque amount as condition was



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communicated or not communicated to the accused, to afford an opportunity to the accused to put forth his defence, time to deposit 20% of cheque amount is extended till 30.06.2024. On such deposit, the trial Court shall re-call P.W.1. If the petitioner/accused fails to deposit the money, the trial Court shall proceed with the trial and dispose the complaint in accordance with law.

3. The learned counsel for the petitioner states that there are two applications, one to re-call P.W.1 and another one to re-open the case. The trial Court has imposed condition to deposit 20% of the cheque amount in each of the application.

4. Though this Court does not find from the order that the trial Court has imposed condition to deposit 20% in each of the application, it is made clear that for both the applications, 20% of the cheque amount alone is sufficient to be deposited within the time specified i.e., on or before 30.06.2024.

5. With the above direction, these Criminal Original Petitions are disposed of. Consequently, the connected miscellaneous petitions are closed.

07.06.2024

Vv



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To

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The Judicial Magistrate-II,
Pollachi.



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Dr.G.JAYACHANDRAN,J.

Vv

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