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Crl.O.P.Nos.13689 and 13692 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.01.2024

Coram:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.Nos.13689 and 13692 of 2023

and

Crl.M.P.Nos.8389 and 8394 of 2023

M.Muthusamy

.. Petitioner in
both cases

/versus/

P.Thangapandi

.. Respondent in
both cases

Prayer in Crl.O.P.No.13689 of 2023: Criminal Original Petition has been filed under Section 482 of Cr.P.C., praying to allow the above criminal original petition by setting aside the order dated 10.03.2023 passed in C.M.P.No.1033 of 2023 in S.T.C.No.1251 of 2018 on the file Judicial Magistrate Court, Palladam.

Prayer in Crl.O.P.No.13692 of 2023: Criminal Original Petition has been filed under Section 482 of Cr.P.C., praying to allow the above criminal original petition by setting aside the order dated 10.03.2023 passed in C.M.P.No.1032 of 2023 in S.T.C.No.1251 of 2018 on the file Judicial



Magistrate Court, Palladam.

For Petitioner : Mr.K.Govi Ganesan(both cases)

For Respondent : Mr.N.Manoharan(both cases)

COMMON ORDER

These Criminal Original Petitions were filed challenging the orders passed by the Court below dismissing the applications filed in C.M.P.Nos.1032 and 1033 of 2023, dated 10.03.2023, to reopen and to recall PW-1 to PW-3 for further examination. These witnesses were also cross examined by the respondent.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and also carefully considered the materials available on record.

3. The petitioner realized that the cheque number has been wrongly mentioned in the legal notice, complaint and sworn statement as '71830' instead of '718301'. The petitioner wanted to clarify this mistake by



reopening and recalling PW-1 to PW-3. These applications came to be dismissed by the Court below on the ground that these application were filed with delay. Aggrieved by the same, these Criminal Original Petitions have been filed before the Court.

4. In the considered view of this Court, the mistake seems to be due to inadvertence. The only discrepancy is that the last number ('1') was missed in the legal notice, complaint and sworn statement. Ultimately, the subject cheque is available before the Court and the Court can always apply its mind as to whether such mistake had taken place due to inadvertence. It is not necessary to recall all the witnesses to rectify this mistake. The fact remains that the cheque number has been mentioned as '71830' in the legal notice, complaint and sworn statement. This cannot be changed by recalling the witnesses. However, it is always open to the petitioner to argue the case before the Court below by referring the cheque already marked as evidence. This mistake had taken place due to inadvertence and the same can be verified with the original cheque, that has been marked before the Court below. This clarification will sufficiently take care of the grievance expressed by the petitioner.



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5. It is brought to the notice of this Court that this case is now at the stage of pronouncing judgment. The Court below shall take into consideration the observations made in this order and also the defence taken by the respondent and pass final orders.

6. Accordingly, these Criminal Original petitions are disposed of. Consequently, connected Miscellaneous Petitions are closed.

19.01.2024

Index:yes/no
Neutral Citation:yes/no
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To:
Judicial Magistrate Court, Palladam.



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N.ANAND VENKATESH, J.
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