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Crl.R.C.No.1208 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**Crl.R.C.No.1208 of 2024
And
Crl.M.P.No.10284 of 2024**

R.Muthu Kumar

... Petitioner

Vs.

S.Sitrarasu

... Respondent

Prayer:

Criminal Revision Case filed under Section 438 r/w 442 of B.N.S.S., seeking to set aside the dismissal order in Crl.M.P.No.1958 of 2023 in S.T.C.No.3515 of 2018, dated 02.05.2024, on the file of Court of Hon'ble Judicial Magistrate, Thiruvottiyur and permit the petitioner/accused for summoning of the petition listed persons on the defence side witnesses in the above case in S.T.C.No.3515 of 2018.

For Petitioner : Mr.G.Shiva Surya

For Respondent : Mr.R.Rangarajan

O R D E R

The criminal revision case has been filed seeking to set aside the the order in Crl.M.P.No.1958 of 2023 in S.T.C.No.3515 of 2018, dated 02.05.2024, on the file of the learned Judicial Magistrate, Thiruvottiyur



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and permit the petitioner/ accused for summoning of the petition listed persons on the defense side witnesses in the above case in S.T.C.No.3515 of 2018.

2.The learned counsel for the petitioner submitted that the petitioner is the accused in S.T.C.No.3515 of 2018 and he filed petition under Section 254 (2) of Cr.P.C. for summoning of the petition listed persons on the defence side and the said petition was dismissed by the trial Court. The learned counsel further submitted that the respondent filed the complaint under Section 138 of the Negotiable Instruments Act alleging that the petitioner borrowed a sum of Rs.10 Lakhs for which, he issued the disputed instrument, however, the petitioner stood as a security for one Sathish Kumar and subsequently, the said Sathish Kumar paid the entire amount by transferring the amount to the account of the sons of the respondent. To prove the same, the petitioner wants to examine the said Sathish Kumar and the Bank Official. Hence, the filed Crl.M.P.No.1958 of 2023, however, the said petition was dismissed by the trial Court. The learned counsel further submitted that the case is posted for hearing on 12.08.2024.



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3.Per contra, the learned counsel for the respondent submitted that earlier the petitioner filed petition seeking very same relief before the trial Court and the same was allowed, however, the petitioner did not examine Sathish Kumar and Bank Official and thereafter filed CrI.M.P.No.1958 of 2023 for the very same relief and the said petition was rightly dismissed by the trial Court.

4.Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondent.

5.The facts in the present case is not in dispute. Admittedly the respondent filed the complaint under Section 138 of the Negotiable Instruments Act in S.T.C.No.3515 of 2018. The petitioner claim that he only stood as a security for one Sathish Kumar and subsequently, the said Sathish Kumar paid the entire amount by transferring the amount to the account of the sons of the respondent. To prove the same, the petitioner wants to examine the said Sathish Kumar and the Bank Official.

6.Allowing the petition listed persons to be examined as the



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defence side witnesses would not cause any prejudice to the respondent. The trial Court ought to have given fair opportunity to the petitioner, however, the same was denied which is not sustainable one.

7.In view of the above, the order dated 02.05.2024 made in Crl.M.P.No.1958 of 2023 in S.T.C.No.3515 of 2018 by the learned Judicial Magistrate, Thiruvottiyur is set aside. The petitioner is directed to produce the petition listed persons before the trial Court on the next date of hearing on 12.08.2024. The respondent shall conclude the cross examination on the same day. The trial Court shall dispose of S.T.C.No.3515 of 2018, within a period of three months from the date of receipt of completion of cross examination.

8.This criminal revision case is allowed on the above terms. Consequently, the connected miscellaneous petition is closed.

01.08.2024

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

To
1.The Judicial Magistrate, Thiruvottiyur.

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