



CrI.O.P.No.20930 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No.20930 of 2023

and

CrI.M.P.No.14360 of 2023

S.Muthukumaraperumal.
S/o.Srinivasan

... Petitioner

Vs.

K.Rajavel,
S/o.Kandasamy

... Respondent

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to set aside the docket order dated 28.07.2023 in S.T.C.No.612 of 2022 passed by the learned Judicial Magistrate, Paramathy and permit the authorized person, Kalaimagal Capital as defense side 1st witness.

For Petitioner : Mr.S.Sivakumar

For Respondent : Mr.G.Anbuchezeiyan



Crl.O.P.No.20930 of 2023

ORDER

WEB COPY This petition has been filed challenging the docket order passed by the Court below dated 28.07.2023.

2. When the matter is came up for hearing on 13.09.2023, this Court passed the following order :

“Notice to Respondent returnable by 04.10.2023. Private notice is also permitted. The learned counsel for the petitioner is also permitted to serve notice on the counsel appearing on behalf of the respondent before the Court below.

2. The short point that is involved in this case is that the petitioner filed an application under Section 254(2) of Cr.Pc. to examine the authorised person belonging to Sri Kalaimagal Capitals. However, the complainant himself was sent as the authorised person to be examined on the side of the petitioner. The complainant had already been examined as PW1 in this case and the defense taken by the petitioner is that the cheque which was given as security to Sri Kalaimagal Capital has been misused. To establish this, the petitioner wanted to examine the authorised person from Sri Kalaimagal Capitals. That authorised person cannot once again be the same complainant. A prima facie case has been made out for grant of an interim order and hence, the Court below is directed to keep the proceedings in abeyance, until further orders.”



Crl.O.P.No.20930 of 2023

WEB COPY

3. Heard Mr.S.Sivakumar, learned counsel appearing on behalf of the petitioner and Mr.G.Anbuchezeiyan, learned counsel appearing on behalf of the respondent.

4. In considered view of this Court, the petitioner wants to establish that the cheque was given as security to Sri Kalaimagal Capitals and the same has been misused. In view of the same, the petitioner wanted to examine the authorized person from Sri Kalaimagal Capitals. Hence, the very same witness who was examined as P.W.1 cannot be sent as authorized person. This was not properly appreciated by the Court below and hence, the docket order dated 28.07.2023 was passed. The same requires the interference of this Court.

5. In the light of the above discussion, the docket order dated 28.07.2023 is hereby set aside. There shall be a direction to the Court below to issue summons to the authorized person of Sri Kalaimagal Capitals to be examined on the side of the petitioner.



Crl.O.P.No.20930 of 2023

WEB COPY

6. The Court below shall complete the proceedings in S.T.C.No.612 of 2022 within the period of four months from the date of receipt of a copy of this order.

7. Accordingly, this Criminal Original Petition stands allowed with the above directions. Consequently, connected Criminal Miscellaneous Petition is closed.

15.02.2024

Speaking Order/Non-speaking Order

Index :Yes/No

Neutral citation: Yes/No

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To

The learned Judicial Magistrate,
Paramathy



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Crl.O.P.No.20930 of 2023

N.ANAND VENKATESH, J.

mkn2

Crl.O.P.No.20930 of 2023
and
Crl.M.P.No.14360 of 2023

15.02.2024