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Crl.O.P.No.22939 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2024

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

Crl.O.P.No.22939 of 2024

A.Vivekanand

... Petitioner

Vs.

Shalini Lazar

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 BNSS, pleaded to set aside the order passed in Crl.M.P.No.47038 of 2024 in S.T.c.No.5939 of 2023 dated 29.08.2024 by the learned XXVI Metropolitan Magistrate, Egmore, Chennai District.

For Petitioner : Mr.C.Mohanraj

ORDER

The application filed by the complainant in S.T.C.No.5739 of 2023 under Section 138 of Negotiable Instruments Act. To recall one Selvaraj was allowed by the trial Court on 19.08.2024 on condition that the petitioner should pay the costs of Rs,2,000/- to the respondent/accused on or before 27.08.2024. The case was adjourned to 29.08.2024 for further proceedings. On the said date, the complainant who is the petitioner herein was absent and there was no representation for the complainant.



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Accused was also absent. However he filed a petition under Section 311

Cr.P.C., and the same was allowed. Since the cost was not paid and there is no representation on the day reports compliance, the learned Magistrate has dismissed the application and posted for arguments on 03.09.2024.

2. The learned counsel appearing for the petitioner/complainant submits that there was communication gap and therefore, the conditional order passed by the Court on the date of hearing not known to the complainant. Hence they could not comply the conditional order. He further submits that he is ready to pay the costs to the respondent/accused before next hearing date, which is fixed on 25.09.2024.

3. Taking note of the fact that the reason for not complying the conditional order appears to be genuine. Opportunity for the complainant to prove his case though granted not availed by him due to communication lapse. Hence this Criminal Original Petition is allowed on condition that the petitioner shall pay the costs of Rs.2,000/- to the respondent/accused on or before 24.09.2024 and produce the witness on



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25.09.2024, being the next hearing date. On such compliance, the trial

Court shall permit the complainant to examine the witness and proceed in accordance with law.

19.09.2024

Note : Issue Today

Index : Yes/No

Neutral Citation : Yes/No

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To

The XXVI Metropolitan Magistrate, Egmore, Chennai District.

Dr.G.JAYACHANDRAN,J.

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