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CrI.O.P.No.28530 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.O.P.No.28530 of 2024

and

CrI.M.P.No.15882 of 2024

1. John Zachariah
2. Mathew John

... Petitioners

Vs.

Bansidhar & Son (HUF)
Rep.by its Power of Attorney
Vinod Kumar, No.145-A, Block
Shivalaya Building, 3rd Floor
Ethiraj Salai, Chennai – 600 015.

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to set aside the order in CrI.M.P.No.53320 of 2024 in C.C.No.4493 of 2016 passed by the learned Metropolitan Magistrate, Fast Track-II (Magisterial Level), Egmore @ Allikulam dated 14.10.2024.

For Petitioners : Ms.M.Uma Shankar

ORDER

This Criminal Original Petition is filed to set aside the order dated 14.10.2024 in CrI.M.P.No.53320 of 2024 in C.C.No.4493 of 2016



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passed by the learned Metropolitan Magistrate, Fast Track-II (Magisterial Level), Egmore @ Allikulam.

2. Learned counsel for the petitioners submitted that the respondent/complainant filed a case in C.C.No.4493 of 2016 on the file of the Metropolitan Magistrate, Fast Track Court –II (Magisterial Level) Egmore @ Allikulam and now the case is at the stage of arguments. The petitioners filed a petition in Crl.M.P.No.53320 of 2024 in C.C.No.4493 of 2016 to re-open and re-call the evidence of P.W.1 and also for production of statement of Income Tax Assessment of complainant, promissory note of the accused and account statement of the complainant, as the petitioner has already repaid the amounts due to the respondent/complainant. However, the Court below dismissed the petition. He further submitted that if the said documents are not produced for cross examination, the petitioner would be put to great loss and hardship. Hence, the present petition is filed.

3. Heard the learned counsel for the petitioner and perused the materials available on record.



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4. It is seen from the records that though the petitioners failed to repay cheque amount, the respondent/complainant sent notice to all the petitioners/accused on 09.09.2011, however, the petitioners neither repaid the amount, nor sent any reply to the said notice, and therefore, the petitioner has no right to demand the documents, which were in possession of the complainant for additional cross examination of P.W.1, and hence, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

5. However, the petitioner is at liberty to take all his defence before the trial Court during arguments.

14.11.2024

Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No
ms

To
The Metropolitan Magistrate,
Fast Track-II (Magisterial Level),
Egmore @ Allikulam.

P.VELMURUGAN, J



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