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Crl.O.P.No.32004 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2024

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.32004 of 2024

and

Crl.M.P.No.18230 of 2024

K.Yeragaselvan

... Petitioner

Vs

P.K.Balamuruges

... Respondent

PRAYER: Criminal Original Petition filed under Section 528 of BNSS, to set aside the order dated 14.11.2024 passed in Crl.M.P.No.60956 of 2024 in S.T.C.No.9982 of 2022 on the file of the Metropolitan Magistrate, FTC II, Allikulam, Chennai.

For Petitioner : Mr.P.Shiva

ORDER

This Criminal Original Petition has been filed to set aside the order dated 14.11.2024 passed in Crl.M.P.No.60956 of 2024 in S.T.C.No.9982 of 2022 on the file of the Metropolitan Magistrate, FTC II, Allikulam, Chennai.



Crl.O.P.No.32004 of 2024

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

3. Since no adverse order is passed as against the respondent, notice to the respondent is dispensed with.

4. Learned counsel for the petitioner submitted the respondent/complainant filed a complaint as against the petitioner/accused, for the offence under section 138 of the Negotiable Instruments Act and the same was taken on file as S.T.C.No.9982 of 2022 on the file of the Metropolitan Magistrate, Fast Track Court-II, Egmore, Allikulam, Chennai. Thereafter, the petitioner filed a petition in Crl.M.P.No.36798 of 2024 under Section 91 Cr.P.C., seeking a direction to the respondent to produce certain document and the same was allowed by the learned Magistrate. Further, the petitioner filed a petition in Crl.M.P.No.60956 of 2024 under Section 311 Cr.P.C., to recall and re-open of P.W.1 and the same was dismissed by the learned Magistrate. Aggrieved over the same, the petitioner has filed the above criminal original petition.



Crl.O.P.No.32004 of 2024

WEB COPY

5. On a perusal of the impugned order, it is seen that though the petitioner filed a petition under Section 91 Cr.P.C and the same was allowed by the learned Magistrate, he has not taken any steps to mark the document and further, though opportunity was given to the petitioner to re-call P.W.1 twice, the petitioner failed to utilise the opportunity. Further, it is represented that the case is posted for judgment on 30.12.2024. Hence, in order to give one more opportunity to the petitioner, this Court directs the petitioner to deposit 20% of the cheque amount to the credit of S.T.C.No.9982 of 2022 on the file of the Metropolitan Magistrate, Fast Track Court-II, Egmore, Allikulam, Chennai on or before 24.12.2024, failing which, this criminal original petition shall stand dismissed automatically without further reference to this Court. On such deposit being made by the petitioner, the learned Magistrate is directed to summon P.W.1 and on appearance of P.W.1, the petitioner is directed to cross-examine P.W.1. After giving due opportunity to the parties, the learned Magistrate is directed to proceed with the case and dispose the case on merits and in accordance with law as listed on 30.12.2024.



Crl.O.P.No.32004 of 2024

WEB COPY

6. With the abovesaid direction, the Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

20.12.2024

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

Note: Issue order copy on 21.12.2024

Copy to

The Metropolitan Magistrate, FTC II, Allikulam, Chennai.



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Crl.O.P.No.32004 of 2024

P.VELMURUGAN, J.

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and
Crl.M.P.No.18230 of 2024

20.12.2024