



CrI.O.P.No.31516 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.O.P.No.31516 of 2024 &
CrI.M.P.No.17935 of 2024

Ravikumar Shivappa Belagali ... Petitioner

Vs.

M.Thamaraikani ... Respondent

Prayer: Criminal Original Petition is filed under Section 528 BNSS, to call for the order passed in C.M.P.No.8093 of 2024 in S.T.C.No.589 of 2019, dated 18.11.2024 on the file of the learned Judicial Magistrate No.I, Tirupattur and set aside the same.

For Petitioner : Mr.A.Subadra

ORDER

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

2. The respondent filed a private complaint against the petitioner for the offence under Section 138 of the Negotiable Instruments Act, which was numbered as S.T.C.No.589 of 2019 before the learned Judicial Magistrate No.I, Tirupattur. In the said case, the petitioner filed a petition in



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C.M.P.No.8093 of 2024 to reopen the case and examine further witnesses on the defense side.

3. A perusal of the records reveals that the complaint was filed in the year 2019. The defacto complainant was examined as P.W.1 on 07.07.2022, and the complainant's evidence was closed on 05.04.2023. When the matter was posted for cross-examination, the petitioner did not appear. Subsequently, the matter was posted for questioning under Section 313 of the Cr.P.C., which was completed on 23.08.2023. The case was then posted for defense witnesses on 07.09.2023 and again on 04.10.2023, but the petitioner failed to produce any defense witnesses. Consequently, on 04.10.2023, the learned Magistrate closed the defense side witness and issued a non-bailable warrant against the petitioner. However, the non-bailable warrant was recalled on 18.06.2024, and the petitioner voluntarily surrendered on 12.07.2024. The case was pending for defense witnesses, which was again closed on 02.09.2024. When the case was posted for the petitioner's arguments, the petitioner filed a petition in C.M.P.No.8093 of 2024 in S.T.C.No.589 of 2019, seeking to reopen the case to examine further witnesses on the defense side and to recall the petition. The learned Magistrate dismissed the said petition on the ground that, despite being given sufficient opportunities, the petitioner failed to proceed with the defense witnesses and did not provide adequate reasons.



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4. Though this Court does not find any valid reason to set aside the order passed by the learned Magistrate, in the interest of justice, it is decided to grant one more opportunity to the petitioner on the condition that the petitioner shall deposit 20% of the disputed cheque amount (Rs.9,00,000/- and Rs.1,00,000/-), i.e., Rs.2,00,000/- (Rupees Two Lakhs only), before the learned Magistrate on or before 24.12.2024. Upon the deposit of the said amount, the learned Magistrate is directed to issue summons to the defense witnesses. After providing the opportunity to the witnesses, the learned Magistrate is further directed to dispose of the case in S.T.C.No.589 of 2019 on merits and in accordance with law within a period of two months from the date the case is taken up. It is made clear that if the petitioner fails to comply with the condition stated above on or before 24.12.2024, this criminal original petition will stand dismissed without any further reference to this Court.

5. With the above directions, this criminal original petition is disposed of. Consequently, connected miscellaneous petition is closed.

6. List the matter for reporting compliance on 02.01.2025.

17.12.2024

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

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WEB COPY

To

The Judicial Magistrate No.I,
Tirupattur.



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P.VELMURUGAN, J

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