



Crl.O.P.(MD).No.2004 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 09.02.2024

CORAM:

THE HONOURABLE Mr. JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.(MD).No.2004 of 2024

and

Crl.M.P.(MD).No.1511 of 2024

Dr.C.Suresh

... Petitioner

Vs.

K.Sethu

... Respondent

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to call for the records pertaining to the order passed in Crl.M.P.No.3808 of 2023 in C.C.No.51 of 2021 dated 11.01.2024 on the file of the learned Fast Track Court, Karaikudi and set aside the same.

For Petitioner : Mr.A.Balaji

ORDER

This Criminal Original Petition had been filed to set aside the order passed in Crl.M.P.No.3808 of 2023 in C.C.No.51 of 2021 dated 11.01.2024 on the file of the learned Judicial Magistrate Fast Track Court (Magisterial Level), Karaikudi.



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2. The learned Counsel for the Petitioner submitted that the Petitioner is arrayed as accused in the private complaint filed by the Respondent under Section 138 and 142 of Negotiable Instruments Act in C.C.No.51 of 2021 and it was pending before the learned Judicial Magistrate Fast Track Court (Magisterial Level) Karaikudi District. The Petitioner is serving as Assistant Professor in a College. He is visually impaired person. The case as per the complaint is that the Petitioner obtained loan from the Respondent, in order to purchase a house plot, for which the Petitioner is alleged to have given a cheque to the Respondent complainant. When the Respondent presented the cheque, the same was returned as “Drawer Signature differs”. The learned Counsel for the Petitioner further submitted that due to his visual impairment, his account details were maintained by the respondent's son-in-law namely Palaniappan. Hence, the Respondent's son-in-law had illegally taken the cheques and misused them. In order to disprove the above allegations, the Petitioner had to examine one Anand as DW2 and he wanted to prove that the son-in-law of the Respondent had misused the cheque and filed the complaint against the Petitioner. Actually, he does not owe any liability to pay the Respondent/complainant. If the said Anand is not examined, then the valuable defence of the Petitioner as accused in C.C.No.51 of 2021 will be lost. Therefore, the



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Petitioner seeks to set aside the order passed by the learned Judicial Magistrate, Fast Track Court (Magisterial Level) Karaikudi in Cr.M.P.No.3808 of 2023 in C.C.No.51 of 2021 dated 11.01.2024.

3. On perusal of the order passed by the learned Judicial Magistrate, Fast Track Court (Magisterial Level) Karaikudi, it is found that it is a well reasoned order. The accused before the learned Judicial Magistrate, in the course of the trial, had sought time for amicable settlement. Even after examination of the complainant side witnesses and closing of complainant side witnesses, after grant of sufficient time, the accused himself has let in evidence as DW-1. Subsequently, after several adjournments, the Petitioner had sought to examine the said Anand by filing a petition under Section 311 Cr.P.C. The learned Judicial Magistrate, Fast Track Court (Magisterial Level) Karaikudi in his order clearly stated that in the course of the evidence by the accused as DW1, he had not mentioned about the misuse of the cheque by the son-in-law of the Complainant or mentioned about the name of Anand. While so it is an after thought employed only to protract the proceedings. Therefore, the learned Judicial Magistrate, Fast Track Court (Magisterial Level) Karaikudi, had dismissed the petition under Section 311 Cr.P.C seeking to summon one Anand as a witness on behalf of the accused. The said order of the learned Judicial



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Magistrate is found to be well reasoned order, as in the course of trial, the accused had sought amicable settlement. Therefore, exercising the power under Section 482 Cr.P.C, this Court cannot set aside a well reasoned order of the learned Judicial Magistrate, Fast Track Court (Magisterial Level) Karaikudi, based on the conduct of the parties before the Trial Court and the record before the Trial Court, which has more weightage. Therefore, the petition lacks merit and it is liable to be dismissed.

4. In the light of the above, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

09.02.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To

The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

Nsr

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