



Crl.O.P.(MD)No.6541 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 29.04.2024

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

Crl.O.P.(MD)No.6541 of 2024

and

Crl.M.P.(MD)No.4952 of 2024

Ponnusamy

... Petitioner

Vs.

Nandakumar

... Respondent

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the order dated 11.03.2024 made in Crl.M.P.No.1833 of 2024 in C.C.No.472 of 2021 pending on the file of the learned Judicial Magistrate Court No.I, Dindigul and set aside the same.

For Petitioner : Mr.M.Suresh

ORDER

The Criminal Original Petition has been filed to set aside the order dated 11.03.2024 made in Crl.M.P.No.1833 of 2024 in C.C.No.472 of 2021 pending on the file of the learned Judicial Magistrate Court No.I, Dindigul.



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2.The petitioner is an accused in C.C.No.472 of 2021 on the file of the learned Judicial Magistrate No.I, Dindigul. The said case was instituted as against the petitioner for the offence under Section 138 of the Negotiable Instruments Act. The complainant in C.C.No.472 of 2021 was examined in chief on 02.06.2023, but, the petitioner has failed to cross examine the complainant on that day.

3.It appears that the petitioner has not taken any steps to cross examine P.W.1 and he also dragged the matter for almost eight months and thereafter, he filed an application under Section 311 of Cr.P.C. only on 02.02.2024. Therefore, this Court is not inclined to interfere with the order passed by the trial Court.

4.At this juncture, the learned counsel for the petitioner submits that the petitioner is having a good case in the trial. However, on wrong advice, he has not cross examined P.W.1 on the day when he has appeared for cross examination. He further submits that the petitioner, in order to show his *bona fide*, is also preferred to pay a sum of Rs.40,000/- to the defacto complainant.

5.The petitioner is an accused facing the charge for the offence under Section 138 of N.I. Act. Admittedly, the petitioner has failed to cross examine



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the complainant on the date, when he was available. He has also filed the application after a period of eight months. Now he has come forward to pay a sum of Rs.40,000/- to the defacto complainant.

6.Considering this offer made by the learned counsel for the petitioner, this Criminal Original Petition is allowed. The impugned order in Crl.M.P.No.1833 of 2024 in C.C.No.472 of 2021, dated 11.03.2024, is set aside. The petitioner is directed to file a fresh application along with the demand draft drawn in favour of the defacto complainant within a period of one week from the date of receipt of a copy of this order. On filing such application, the Court shall fix a specific date within a period of two weeks therefrom for the purpose of cross examination of the complainant and in the event if the petitioner fails to cross examine the complainant on that particular day, the trial Court shall proceed further with the trial. Consequently, connected miscellaneous petition is closed.

29.04.2024

NCC : Yes/No

Index : Yes/No

Internet:Yes

sjj

To

The Judicial Magistrate Court No.I, Dindigul.



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B.PUGALENDHI,J

sjj

Order made in
Crl.O.P.(MD)No.6541 of 2024

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