



Crl.O.P.(MD)No.10322 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.07.2024

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

Crl.OP(MD)No.10322 of 2024 and
Crl.MP(MD) No.6979 of 2024

A.Pappu Jerold

... Petitioner

Vs

T.Jeba Kumar

...Respondent

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crl M.P No. 3432/2024 in CC No. 59 of 2019 on the file of the Fast track court (Magisterial level) Thoothukudi, Thoothukudi District, dated 05.06.2024 and set aside the same.

For Petitioners : Mr.KA.Ramakrishnan

ORDER

Challenging the order passed by the learned Magistrate, Fast Track Court (Magisterial level) Thoothukudi, Thoothukudi District, in Crl.M.P No. 3432/2024 in CC No. 59 of 2019, dated 05.06.2024, this Criminal Original Petition is filed.



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2.The petitioner is an accused in the proceedings, which was initiated as against him under Section 138 of NI Act. He has filed an application before the trial Court under Section 311 of Cr.P.C, to re-open the case in CC No. 59 of 2019 and to examine the defence witnesses. However, the same was dismissed by the learned Magistrate, considering the conduct of this petitioner in not taking steps for submission of list of witnesses, from 23.12.2022 to 06.07.2023 and that no steps have been taken to serve summons to those witnesses.

3.The learned counsel appearing for the petitioner submits that the dispute is purely land brokerage contract. Since he is having sufficient witness to defend his case, he may be provided with one more opportunity and in order to show his bonafide, he is prepared to pay a sum of Rs.25,000/- to the credit of CC No.59 of 2019.

4.This Court considered the submissions made by the learned counsel for the petitioner and also perused the order passed by the learned Magistrate in Crl.M.P No. 3432/2024 in CC No. 59 of 2019, dated 05.06.2024.



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5.The above case is pending from the year 2019. The prosecution has completed its evidence in the month of November – 2022. Thereafter, the case was posted for questioning under Section 313 of Cr.P.C and it was completed. The petitioner claims that he is having witnesses, however, he has not placed the same. Since the petitioner has not taken any steps from 23.12.2022 to 06.07.2023, the trial Court has dismissed the application. This Court is of the view that though sufficient opportunity was provided to the petitioner, he has not utilized the same. Now, he seeks one more opportunity and in order to show his bonafide, he is prepared to pay a sum of Rs.25,000/- to the credit of CC No.59 of 2019.

6.In view of the above, this Court is dispensing with the notice to the respondent, in order to avoid further delay in the proceedings. The petitioner is directed to deposit a sum of Rs.25,000/- to the credit of CC No.59 of 2019 along with an application, enclosing the list of witnesses within a period of one week from the date of receipt of a copy of this order and on such payment along with the application, the trial Court shall consider the same and provide one more opportunity to



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the petitioner for examination of witnesses, by fixing a specific date for production of those witnesses before the trial Court. On the specific date prescribed by the trial Court, the petitioner has to produce the witnesses for examination. In the event, if the petitioner fails to do so, the trial Court shall proceed with the case on its merits and take a decision. It is the discretion of the trial Court to decide the fate of the amount deposited by the petitioner either under Section 452 of Cr.P.C or 357 of Cr.P.C.

7.With the above directions, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

12.07.2024

NCC : Yes/No
Index : Yes/No
Internet:Yes
vrn



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B.PUGALENDHI,J

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Order made in
CrI.OP(MD)No.10322 of 2024 and
CrI.MP(MD) No.6979 of 2024

12.07.2024