



Crl.O.P.(MD)No.14944 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:22.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD) No.14944 of 2022

and

Crl.M.P(MD) No.9746 of 2022

P.Arumuga Nadar

... Petitioner/Accused

Vs.

P.Sreekumar

...Respondent/Complainant

Prayer: The Criminal Original Petition is filed under Section 482 of Cr.P.C., to set aside the order passed by the learned Judicial Magistrate No.I, Padmanabapuram, Kanyakumari District in Cr.M.P. No.8815 of 2021 in S.T.C.No.341 of 2017 vide order dated 04.07.2022 and consequently direct the aforesaid learned Judicial Magistrate to permit the petitioner to cross examine the respondent/complainant in connection with the said case.

For Petitioner

: Mr.V.Moushica,

Mr.Anand R

For Respondent

: Mr.V.Malaiyendran



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ORDER

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This Criminal Original Petition has been filed to set aside the order passed by the learned Judicial Magistrate No.I, Padmanabapuram, Kanyakumari District in Cr.M.P. No.8815 of 2021 in S.T.C.No.341 of 2017 vide order dated 04.07.2022 and consequently direct the aforesaid learned Judicial Magistrate to permit the petitioner to cross examine the respondent/complainant in connection with the said case.

2.The petitioner was implicated for the offence under Section 138 of the Negotiable Instruments Act in S.T.C No.341 of 2017. While so, in order to recall the witness, viz., P.W.1, for cross-examination, the petitioner has filed a petition in Crl.M.P.No.8815 of 2021, which was dismissed by the Court below on 04.07.2022 and hence, the petitioner is before this Court with this petition.

3. The learned counsel for the petitioner would submit that in order to disprove the prosecution case, it is necessary to recall P.W.1 for the purpose of cross examination. He would further submit that a direction



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may be issued for recalling the witness, in which case, the petitioner pays necessary costs.

4. The learned counsel for the respondent would submit that the defacto complainant made a complaint against the petitioner in the year 2017. The petitioner, in order to drag on the proceedings, petition under Section 311 of Cr.P.C., was filed twice before the concerned Court and the same were dismissed. This is the third petition to recall P.W.1. He requests this Court that a date may be fixed for cross examination of P.W.1 and further, he has no objection to allow this petition.

5. Considering the facts and circumstances of the case and in order to afford an opportunity to the petitioner herein to cross-examine P.W.1, this petition is disposed of with the following direction:

6. This Court is inclined to fix the date for cross examination i.e, on 06.03.2024. On the said date, the petitioner herein must cross-examine the said witness without fail, for which, the petitioner



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shall pay a cost of Rs.5,000/- (Rupees five thousand only) to P.W.1 on the date of cross examination either directly or to be deposited in the trial Court. The trial Court is directed to complete the trial process within five months from the date of receipt of copy of this order. Consequently connected Miscellaneous Petition is closed.

**22.02.2024
(1/2)**

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

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To:

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



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M.DHANDAPANI,J.

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