



Crl.O.P.(MD) No.13143 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2024

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) No.13143 of 2023

and

Crl.M.P.(MD) Nos.10274 of 2023 and 202 of 2024

T.Rajarathinam

...Petitioner

vs

M.Shanmugam Pillai (died)

1.Pushpavalli Ammal

2.Murugan

3.Chokkalingam

4.Krishnan

5.Shanmugam

6.Pushpavalli

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying, to set aside the order passed by the learned Fast Track Court (Magisterial Level), Thoothukudi in Cr.M.P.No.2660 of 2023 dated 21.06.2023 in CC.No.80 of 2016.



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For Petitioner : Mr.K.Sathishkumar
For Respondents : Mr.R.Balakrishnan

ORDER

This Criminal Original Petition is filed to set aside the order passed by the learned Fast Track Court (Magisterial Level), Thoothukudi in Cr.M.P.No.2660 of 2023 in CC.No.80 of 2016 dated 21.06.2023.

2.The learned Counsel appearing for the Petitioner submits that one Shanmugam Pillai had filed a complaint under Section 138 of Negotiable Instruments Act. In the course of trial, the complainant died. Therefore, the legal heirs of the complainant were impleaded as complainant/parties. Meanwhile, the accused filed a Petition seeking to examine the defense witnesses giving a list of 7 witnesses in Cr.M.P.No.3887 of 2022, which was partly allowed by the learned Judicial Magistrate, wherein the learned Judicial Magistrate had observed that List Witnesses 1 to 6 need not be examined. The accused himself can examine as D.W1. That was partly allowed, against which neither the complainant nor the accused went in appeal or revision. Therefore, the same became final. Subsequently, the accused filed Cr.M.P.No.2660 of 2023, which was dismissed by the learned



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Judicial Magistrate, against which the accused had filed Crl.O.P.(MD) No. 13143 of 2023, in which this Court had granted an order of interim stay stating that the proceeding before the Trial Court is stayed until 04.08.2023. Now, the complainant/party had filed Crl.M.P.(MD) No.202 of 2023 seeking dismissal of Crl.O.P.(MD) No.13143 of 2023 as well as to vacate the interim order granted by this Court, vide order dated 21.07.2023 in Crl.M.P.(MD) No.10274 of 2023.

3.To the query of this Court with regard to the stage of the case, the learned Counsel for the Petitioner/accused submitted that it had reached the stage of D.Ws., It is the submission of the learned Counsel for the Petitioner that the accused in this case is aged about 64 years. Therefore, the case has to be disposed of early.

4.Considering the submission made by the learned Counsel for the Petitioner, this Court is not inclined to allow this petition and accordingly, **this Criminal Original Petition is dismissed** with a direction to the learned Judge, Fast Track Court (Magisterial Level), Thoothukudi to dispose of CC.No.80 of 2016 within the reasonable period of two months from the date



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of receipt of a copy of this order. Whatever is raised in this case by the learned Counsel for the accused can be raised at the time of conclusion of trial before the learned Judge.

5.The learned Counsel for the Petitioner seeks to examine the son and wife of the complainant. It is up to the trial Court to consider the request of the Petitioner, considering the earlier evidence of the complainant at the time of giving his evidence. The accused cannot be permitted to elicit contrary evidence to the complainant's evidence already on record. Consequently, connected Crl.M.P.(MD) No.10274 of 2023 is closed. The stay granted in Crl.M.P.(MD) No.10274 of 2023 in Crl.O.P.(MD) No. 103143 of 2023 dated 21.07.2023 is vacated. Accordingly, Crl.M.P.(MD) No.202 of 2024 is allowed.

Post the matter for Reporting Compliance.

Internet:Yes./No
Index:Yes/No
mm

09.01.2024



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WEB COPY

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



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SATHI KUMAR SUKUMARA KURUP, J.

mm

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