



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.12.2024

CORAM

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

CrI.O.P(MD)No.15366 of 2023

and

CrI.M.P(MD)No.12190 of 2023

Manian @ Manivasagam

... Petitioner

Vs

Ameer Ali

... Respondent

PRAYER: Criminal Original petitions have been filed under Sections 439 (1) (b) of the Code of Criminal Procedure, to call for the records in Cr.M.P No. 1423 of 2022 in S.T.C No. 416 of 2013 on the file of the learned Judicial Magistrate, Thiruppathur, Sivagangai District and set aside the order dated 05.05.2023.

For Petitioner : Mr.Senthil Nathan.B,

For Respondent :Mr.B.Muthumari



WEB COPY

ORDER

This criminal original petition has been filed challenging the order passed by the learned Judicial Magistrate, Thiruppathur, Sivagangai District in Cr.M.P No. 1423 of 2022 in S.T.C No. 416 of 2013, dated 05.05.2023.

2.The petitioner filed a private complaint against the respondent for the offence under Section 138 of Negotiable Instruments Act. When the case was at the stage of evidence on the side of the defence, the respondent filed an application under Section 91 of Cr.P.C to direct the petitioner to produce the accounts that was maintained by the petitioner in the year 2012 and 2013. The petitioner took a stand that he does not possess any such account books and that the petition itself has been filed by the respondent only to drag on the proceedings.

3.The Court below by order dated 05.05.2023, allowed the application and directed the petitioner to produce the account note and other records of the year 2013. Aggrieved by the same, the complainant has filed this petition.



WEB COPY

4. Heard the learned Counsel appearing on either side.

5. The specific stand that has been taken by the petitioner is that the petitioner does not possess any record or accounts note of the year 2013. When such a stand is taken by the petitioner, there is no use in compelling the petitioner to produce the relevant records. At the best, the non production of the account books and other records can be taken into consideration by the Court at the time of appreciation of evidence and if required, adverse inference can be drawn against the petitioner.

6. In view of the above, the order passed by the Court below in Cr.M.P.No.1423 of 2022, dated 05.05.2023 is modified to the extent that if the petitioner has not maintained any accounts or other records during the year 2013, the same shall be taken into consideration by the Court below at the time of appreciation of evidence and if required, adverse inference can be drawn. This clarity will sufficiently take care of the interest of both sides.

7. In the result, this criminal original petition is disposed of in the



WEB COURT

above terms and there shall be a direction to the learned Judicial Magistrate, Thiruppathur, Sivagangai District to dispose of the case in S.T.C.No.416 of 2013 within a period of two months, from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

18.12.2024

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

To

1.The Judicial Magistrate,
Thiruppathur, Sivagangai District.

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



WEB COPY



N.ANAND VENKATESH, J.

LR

Crl.O.P(MD)No.15366 of 2023

18.12.2024