



Crl.O.P.(MD)No.15427 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.09.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.15427 of 2024
and
Crl.M.P(MD)No.9664 of 2024

Chandrasekar

... Petitioner

Vs.

Prabhu

... Respondent

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to set aside the order made in Crl.M.P.No.7220 of 2024, dated 23.07.20224 in C.C.No.298 of 2015 passed by the learned Judicial Magistrate No.II, Tiruchirappalli.

For Petitioner : Mr.B.Jameel Arasu

ORDER

The Criminal Original Petition is directed against the order made in Crl.M.P.No.7220 of 2024, dated 23.07.20224 in C.C.No.298 of 2015 passed by the learned Judicial Magistrate No.II, Tiruchirappalli, allowing



Crl.O.P.(MD)No.15427 of 2024

the petition to recall P.W.1 for the purpose of marking online copy of the postal tracking receipt.

2. During trial, the complainant has filed a petition to recall P.W.1 on the ground that the date in mandatory notice was missing and they have traced out the speed post track receipt. The petitioner/accused has raised objections. The learned Magistrate has allowed the petition by observing that the receipt of the legal notice can be proved only by filing the postal tracking receipt and that the accused is provided with an opportunity of cross examination and no prejudice would be caused to the accused.

3. The learned counsel for the petitioner would submit that since it is the postal tracking receipt, the same cannot be marked through the complainant and it has to be marked either through Advocate concerned or through the postal authority.

4. This Court finds no merit in the said contention. The statutory notice came to be issued at the instance of the complainant and the same



Crl.O.P.(MD)No.15427 of 2024

was sent by the concerned Advocate only for filing compliant and as such, there is absolutely no bar or prohibition for marking the document through the complainant.

5. As rightly observed by the learned trial Judge, the receipt of legal notice can be proved only by marking the postal tracking receipt. Hence, this Court concludes that the above petition is devoid of merits and the same is liable to be dismissed.

6. In the result, the Criminal Original Petition is dismissed. The petitioner is at liberty to raise all the objections, now putforth in the petition, while cross examining P.W.1. Consequently, connected Miscellaneous Petition is closed.

12.09.2024

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



WEB COPY



Crl.O.P.(MD)No.15427 of 2024

K.MURALI SHANKAR,J.

das

To

The Judicial Magistrate No.II,
Tiruchirappalli.

Order made in
Crl.O.P.(MD)No.15427 of 2024
and
Crl.M.P(MD)No.9664 of 2024

Dated: 12.09.2024