



CRL OP(MD). No.21757 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 04.03.2024

CORAM

The Hon`ble Mr.Justice M. DHANDAPANI

**CRL OP(MD) Nos.21757 and 21846 of 2022 and
Crl.M.P.(MD) Nos.15322 and 15384 of 2022**

M/s.Dikis Traders
through its Proprietor
Ramesh Thangadurai

... Petitioner in
both petitions

Vs

M/s.Suresh Traders
Through its Partner
P..Mahesh Anburaj

... Respondent in
Crl.O.P.No.21757/2022

M/s.Annai Stores
through its Proprietor
S.Mani

... Respondent in
Crl.O.P.No.21846/2022

COMMON PRAYER :- Criminal Original Petition filed under section 482 of Cr.P.C., to set aside the impugned orders passed in Cr.M.P.No. 4921/2022 and 5515/2022 filed in STC Nos.41 and 42 of 2019 dated 11.10.2022 on the file of the Special Court for Exclusive Trial of NI Act cases at Tirunelveli.



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For Petitioner : M/s. P.M.Vishnuvardhanan
For Respondents : M/s. H.Arumugam

COMMON ORDER

These petitions have been filed to set aside the order dated 11.10.2022 in Cr.M.P.Nos.4921/2022 and 5515/2022 filed in STC Nos. 41 and 42 of 2019 on the file of the Special Court for Exclusive Trial of NI Act cases at Tirunelveli.

2.It is the case of the respondents that as merchants, they supplied black-grams and for the supply of the same, the petitioner has given cheques, when those were presented, the same got dishonoured and hence, proceedings came to be initiated under Section 138 of the Negotiable Instruments Act followed by a notice, which was taken in STC Nos.41 and 42/2019 by the jurisdictional Magistrate. While the trial has commenced in both the cases, the chief and cross-examination of complainant/P.W.1 was over, the complainants have filed petitions under Section 311 Cr.P.C to recall them for filing certain documents and order has been passed by the trial Court by allowing the petitions for recall,



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against the said orders, the present petitions are filed.

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3. The learned counsel for the petitioner would submit that though the petitioner has issued the cheques in question in favour of the complainants, the petitioner has contended that the same has not been issued for the legally enforceable debts, which were also accepted by the complainant during chief and cross. He would further submit that while so, after a lapse of 3½ and 4½ years, the petitions were filed under Section 311 Cr.P.C., for cross examining P.W.1 and also to produce certain documents. He would, therefore, contend that when the trial is at the final stage, filing one petition or the other is nothing but a delaying tactics and to fill up the lacuna, those petitions were filed. The learned counsel would further submit that the complainants have not even stated that what are the documents that are to be filed to substantiate their case and the said petitions were allowed by a non speaking order and hence, prays for interference.

4. However, the learned counsel for the respondents would submit that since there are documents available against the petitioner and in



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order to substantiate their case, they filed those petitions. He would further submit that if anything omitted at any stage of trial, it can be examined only by filing a petition under Section 311 Cr.P.C., hence, prays for dismissal.

5. Considering the facts and circumstances of the case, in order to afford an opportunity to the complainants to put forth their case, since mere examining the complainants/P.W.1 will not prejudice the petitioner and the complainants have every right to examine any witness as per Section 311 Cr.P.C. at any time and at any stage. Hence, in order to afford an opportunity to the complainants herein to examine themselves in chief and cross, these petitions are disposed of with the following direction:

The trial court shall issue notice to the petitioner as well as the complainants by fixing a date of hearing and on which date, chief and cross-examination shall be concluded, in which case, the complainants shall pay a cost of Rs.2,500/- (Rupees two thousand and five hundred only) each to the petitioner and the trial court shall close the defence witness on the said date and conclude the trial within a period of three



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months from the date of receipt of a copy of this order. Consequently
connected Miscellaneous Petitions are closed.

04.03.2024

NCC : Yes/No
Index : Yes/No
RR

TO

The Special Court
for Exclusive Trial of NI Act cases
Tirunelveli.



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M.DHANDAPANI. J

RR

**ORDER
IN
CRL OP(MD) Nos.21757 & 21846 of 2022**

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