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*CrI.O.P.(MD)No.19444 of 2024*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.11.2024

CORAM

**THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR**

CrI.O.P.(MD)No.19444 of 2024

and

CrI.M.P(MD) No.11992 of 2024

Rajarathinam

.. Petitioner

Vs.

Thangavel

.. Respondent

**PRAYER :** Criminal Original Petition filed under Section 528 of BNSS to call for the records pertaining in CrI.MP No.315 of 2024 in STC No.593 of 2020 dt.23.08.2024 on the file of the Fast Track Court (Magisterial Level), Karur District and set aside the same.

For Petitioner : Mr.C.Muthusaravanan

**ORDER**

This Criminal Original Petition has been filed to set aside the order passed by the learned Judicial Magistrate, Fast Track Court (Magisterial



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Level), Karur District in Crl.MP No.315 of 2024 in STC No.593 of 2020  
dt.23.08.2024.

2. The petitioner as complainant filed a case against the respondent/accused in STC No.593 of 2020 under 138 of Negotiable Instrument Act.

3. The learned counsel appearing for the petitioner submitted that cheque amount is Rs.5,50,000/- and the transaction was during October 2020. The respondent/accused failed to honour the cheque and thereafter following statutory provision complaint has been lodged. The defence taken by the respondent is that during corona period the amount of Rs.5,50,000/- and that he is unable to produce any document or material in support of his contention. The petitioner and the respondent have one common friend name Sathyamani. The respondent had conversation with the said Sathyamani admitting that he has to pay the petitioner Rs. 4,50,000/- and he is ready to pay Rs.4,00,000/-. This conversation has been recorded on 19.01.2023 and the petitioner has filed a petition in Cr.M.P.No. 1 of 2024 earlier to recall himself and mark the conversation recording. The trial Court dismissed the same on 11.06.2024 finding that it is through Sathyamani. Thereafter the petitioner had filed Cr.M.P.NO.



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315 of 2024 to recall Sathyamani and the same was dismissed for the reason that the recording was taken place much subsequent to the filing of the complaint and the case was adjourned for reporting settlement and that cannot be considered during the relevant point of time Hence dismissed the petition.

4. It is seen that the evidence to the produced is conversation between Sathyamani and the respondent on 19.01.2023 admitting the respondent liability to pay the petitioner/complainant but admitting such conversation would again protract the trial proceedings further. The respondent is facing a case wherein statutory presumption is against him. It is seen that as on date the respondent has not denied the issuance of cheques but only takes a defence that the amount has been repaid but again it is not supported with any materials. Making such bald allegations may not be sufficient but this is a fact which has to be considered by the trial court. Now the case stands posted to 15.12.2024 for pronouncing judgment.



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5. In view of the same, this Court finds that the trial Court has given a well reasoned order and no interference is required and hence the Criminal Original Petition stands dismissed. Consequently connected miscellaneous petition stands closed.

**13.11.2024**

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

The Judicial Magistrate,  
Fast Track Court (Magisterial Level), Karur District



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**M.NIRMAL KUMAR,J.**

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