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CrI.O.P.No.3815 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2025

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.3815 of 2025

and

CrI.M.P.No.2496 of 2025

1. Walter Paul

2. M/s. Garabandal Constructions Pvt. Ltd.,
No.L-6, MIG Block,
Foreshore Estate,
Chennai – 600 028.
Rep. by its Managing Director,
L.Walter Paul.

... petitioners

Vs

1. St.Mary's Educational and Charitable Trust,
I.G.P. Complex, 1st Floor,
Chithramcode, Manalikai Post,
Kanyakumari District – 629 164.
Rep. by its Director G.John Christopher

2. G.John Christopher

3. Succor Mary Darling Rose

... Respondents



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Criminal Original Petition is filed under Section 528 of BNSS., to set aside the docket order passed in Crl.M.P.No.14172 of 2023 in C.C.No.1610 of 2012 dated 25.10.2023 on the file of the XXVII Metropolitan Magistrate at Saidapet, previously order passed by the Fast Track Court-V Metropolitan Magistrate at Saidapet, Chennai.

For petitioners : Mr.V.Elangovan

For Respondents : Mr.C.K.M.Appaji

ORDER

This petition has been filed challenging the order passed in Crl.M.P. No. 14172 of 2023 in C.C. No. 1610 of 2012 dated 25.10.2023, thereby allowing the petition filed by the respondent to examine the present complainant and to mark the Board Resolution and other relevant documents.

2. Heard the learned counsel for both sides and perused the materials available on record.



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3. On perusal of the records, it is revealed that the first petitioner

herein is the complainant, and the respondents are the accused in the complaint lodged by the first petitioner for offences punishable under Section 138 of the Negotiable Instruments Act in C.C.No.1610 of 2012. Initially, the complaint was filed by the father of the first petitioner. Subsequently, he passed away, and as such, the first petitioner has been substituted in the complaint and examined as PW1. However, once again, the trial court allowed the petition filed by the respondents to examine the first petitioner as PW1. Furthermore, if the first petitioner fails to mark the Board Resolution and other relevant documents, it would be advantageous for the respondents to present their defence. Therefore, the respondents cannot compel the complainants to examine a particular person or to mark certain documents. Hence, the trial court ought not to have allowed the petition, and as such, the order passed by the trial court cannot be sustained and is liable to be dismissed.

4. In view of the above, the impugned order in Crl.M.P.No.14172



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of 2023 in C.C.No.1610 of 2012 dated 25.10.2023 is hereby set aside.

However, the Trial Court is directed to complete the trial within a period of three months from the date of receipt of a copy of this order.

5. Accordingly, this Criminal Original Petition is allowed.

Consequently, the connected Miscellaneous Petition is closed.

23.04.2025

Index: Yes/No

Neutral Citation: Yes/No

kv

To

1. St.Mary's Educational and Charitable Trust,
I.G.P. Complex, 1st Floor,
Chithramcode, Manalikai Post,
Kanyakumari District – 629 164.
2. The XXVII Metropolitan Magistrate, Saidapet.
3. Fast Track Court-V Metropolitan Magistrate,
Saidapet, Chennai.
4. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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