



Crl.O.P.No.6147 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.6147 of 2023
and Crl.M.P.No.3869 of 2023

R.Prabakaran

... Petitioner

Vs.

T.N.Subramanian

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Cr.P.C., 2023, to set aside the order dated 01.03.2023 made in Crl.M.P.No.149 of 2023 in C.C.No.20 of 2022 on the file of the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Kallakurichi, by allowing this criminal original petition.

For Petitioner : Mr.N.Manoharan

For Respondent : Mr.M.Senthil Kumar

ORDER

This petition has been filed challenging the order passed in Crl.M.P.No.149 of 2023 in C.C.No.20 of 2022 on the file of the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Kallakurichi, thereby allowing the petition to recall P.W.1 on condition that the



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petitioner shall deposit a sum of Rs.1,50,000/- being 10% of the cheque amount on or before 08.03.2023.

2. The petitioner is an accused in the complaint lodged by the respondent for the offence punishable under Section 138 of Negotiable Instruments Act. After examining the complainant as P.W.1, the petitioner filed petition under Section 311 of Cr.P.C., to recall P.W.1 for cross-examination. The trial Court allowed the said petition on condition that the petitioner shall deposit a sum of Rs.1,50,000/- to the credit of the criminal case.

3. It is seen that the trial Court can impose condition to deposit part of the cheque amount by exercising power under Section 143A of the Negotiable Instruments Act. However, the trial Court has no jurisdiction to impose condition while allowing the petition to recall the witness that too to deposit 10% of the cheque amount.

4. In view of the above, the condition imposed on the petitioner to deposit 10% of the cheque amount cannot be sustained.

Accordingly, the order passed in Crl.M.P.No.149 of 2023 in C.C.No.20



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of 2022 on the file of the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Kallakurichi, is hereby set aside. The petitioner is permitted to cross-examine P.W.1 on the date fixed by the trial Court. After cross-examination of P.W.1, the trial Court viz., the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Kallakurichi, is directed to complete the trial in C.C.No.20 of 2022, within a period of three months thereafter.

5. With the above directions, the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

05.02.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

rts

To
The Judicial Magistrate,
Fast Track Court (Magisterial Level),
Kallakurichi.



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G.K.ILANTHIRAIYAN. J.

rts

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