IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2025

CORAM:

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

Crl.O.P.Nos.21500 & 21537 of 2024
and Crl.M.P.Nos.12305, 12306, 12319 & 12320 of 2024

Tarun Jain ... Petitioner in both Crl.O.Ps.

Vs.

Mandira Bansal ... Respondent in both Crl.O.Ps.

Common Prayer: Criminal Original petitions filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the orders dated 12.07.2024 passed in Crl.M.P.Nos.7745 & 7750 of 2024 respectively in S.T.C.No.4604 of 2022 on the file of the learned XXV Metropolitan Magistrate, Egmore, Chennai – 600 008 and allow the petitions as prayer for.

In both Crl.O.Ps.

For Petitioner : Mr.Prakash Goklaney

For Respondent : No appearance

COMMON ORDER

These petitions have been filed challenging the order dated 12.07.2024 passed in Crl.M.P.Nos.7745 & 7750 of 2024 respectively in

S.T.C.No.4604 of 2022 by the learned XXV Metropolitan Magistrate, Egmore, Chennai, thereby dismissing the petitions filed under Section 91 of Cr.P.C., for production of original ledger statement accounts relating to the petitioner and income tax returns for the relevant year 2018-19 & 2019-20 and also to reopen the evidence of the respondent to recall D.W.1 for the purpose of cross-examination.

2. The petitioner is the complainant and the respondent is the accused. The petitioner filed complaint for the offence punishable under Section 138 of Negotiable Instruments Act, as against the respondent. While cross examining the respondent as D.W.1, she categorically admitted that she was maintaining accounts including a ledger and also she had other transactions. She also ready to produce the ledger statement of account and also income tax returns for the relevant periods i.e., 2018-19 & 2019-20. Therefore, the petitioner wants to cross-examine D.W.1 and filed petition to recall D.W.1 and to produce the original documents. However, both the petitions were dismissed on the ground that the petitioner failed to state any reason as to why the said documents are required and what facts are going to be proved through the said documents.

3. Heard the learned counsel appearing for the petitioner and perused the materials placed before this Court. Though notice served and the respondent's name is also printed in the cause list, no one is appeared on behalf of the respondent either in person or through counsel.

4. On perusal of the cross-examination of the respondent revealed that the respondent accepted to produce the ledger statement account and also income tax returns for the year 2018-19 & 2019-20. The petitioner requested to defer the rest of the cross-examination. In the mean while, the trial Court closed the evidence. Therefore, the petitioner filed petitions to recall D.W.1 and also section 91 of Cr.P.C. In view of the above, this Court finds infirmity and illegality in the order passed by the Court below and it cannot be sustained and liable to be set aside.

5. Accordingly, the order dated 12.07.2024 passed in Crl.M.P.Nos.7745 & 7750 of 2024 respectively in S.T.C.No.4604 of 2022 by the learned XXV Metropolitan Magistrate, Egmore, Chennai, is hereby set aside. The respondent is directed to produce ledger statement account and the income tax return for the year 2018-19 & 2019-20 and

the trial Court is directed to fix the date for further cross-examination of D.W.1. If the petitioner failed to cross-examine D.W.1 on the date fixed by the trial Court, the trial Court is directed to proceed with the trial in accordance with law and dispose the same within a period of three months from the date of receipt of a copy of this Order.

6. With the above directions, both the Criminal Original Petitions stand allowed. Consequently, connected miscellaneous petitions are closed.

07.02.2025

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

rts

G.K.ILANTHIRAIYAN, J.

rts

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