



CRL OP NO. 29361 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **07-01-2025**

CORAM

THE HONOURABLE MR JUSTICE P. VELMURUGAN

CRL OP NO. 29361 of 2024

G.Thiruchandaran

Petitioner

Vs

V.Umapathi

Respondents

PRAYER: Criminal Original Petition filed under Section 528 of BNSS, to set aside the order passed in Crl.M.P.No.616/2024 in S.T.C.54/2020, dated 06.07.2024 on the file of the Judicial Magistrate, Fast track Court (M.L.), Dharmapuri.

For Petitioner:

Mr.N.Umapathi

For Respondent:

Mr.V.Umapathi (Party in person)

ORDER

This Criminal Original Petition has been filed to set aside the order passed in Crl.M.P.No.616/2024 in S.T.C.54/2020, dated 06.07.2024 on the file of the Judicial Magistrate, Fast track Court (M.L.), Dharmapuri.



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2. Heard the learned counsel appearing for the petitioner and the respondent - Party in person and perused the materials available on record.

3. The petitioner herein filed a private complaint as against the respondent for the offence under Section 138 of the Negotiable Instruments Act, in S.T.C.No.54 of 2020 on the file of the Judicial Magistrate, Fast Track Court, Dharmapuri. Pending S.T.C, the petitioner was examined in chief and two more witnesses were examined on his side. The respondent being the accused was given opportunity to defend his case. The respondent has also cross examined all the witnesses. The case is of the year 2020 and all the witnesses were examined even in the year 2022 itself, and the respondent has also cross-examined all the witnesses on his side and the matter was posted for arguments. At this stage, the respondent has filed Crl.M.P.No.616 of 2024 under Section 311 Cr.P.C., sought permission to recall and for further cross-examination of P.W.1. The learned Magistrate vide impugned order dated 06.07.2024 allowed the petition. Aggrieved over the same, the petitioner has filed this criminal original petition.



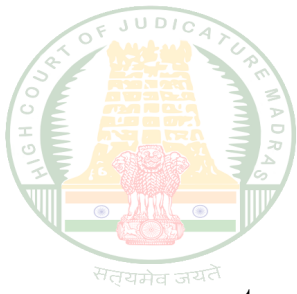
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4. Today when the matter is taken up for hearing, the respondent appeared before this Court submitted that he got certain documents to prove his defence. Hence he seeks opportunity for further cross-examination and marking of certain documents.

5. On a perusal of the records, it is seen that, statutory notice was duly served on the respondent and on receipt of the same, the respondent has also sent a detailed reply. Further he extensively cross-examined the complainant's side witnesses. The proceedings initiated under Section 138 of the Negotiable Instruments Act are summary in nature. Since sufficient opportunity was given to the respondent/accused to defend his case, he cannot take a different stand at this stage, by taking advantage of the long pending of the case.

6. Under the above facts and circumstances of the case, order passed in CrI.M.P.No.616/2024 in S.T.C.54/2020, dated 06.07.2024 on the file of the Judicial Magistrate, Fast track Court (M.L.), Dharmapuri is



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set aside. The learned Magistrate is directed to proceed with the case and dispose of the same in accordance with law, as early as possible.

7. With the abovesaid direction, this Criminal Original Petition is Allowed.

07.01.2025

mfa

Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

The Judicial Magistrate, Fast track Court (M.L.), Dharmapuri.



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P.VELMURUGAN, J.

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