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Crl.O.P.No.29490 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.29490 of 2024
& Crl.M.P.No.16494 of 2024

1. Thiru.Baskaran, Aged 65 years,
S/o. Dhamodaran,
residing at No.23, Ramya Nagar,
Madhanapuram,
Chennai-116.

2. M/s.Sri Devi Stores,
Rep by its Proprietor Baskaran,
No.325, Trunk Road,
Porur, Chennai – 600 116.

... Petitioners/Accused

/versus/

S.Mohan, A/33 years,
S/o. Subramani,
No.100, Pillaiyar Koil Street,
Kattupakkam,
Chennai-600 116.

... Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS Act.,
pleaded to set aside the order passed by the Judicial Magistrate, Fast Track
Court, Poonamallee, dated 05.09.2024, in Crl.M.P.No.6175/2024 against
STC.No.1053 of 2021.

For Petitioners : Mr.V.K.Sathiamurthy

For Respondent : Ms.Meenakshi Sundaram



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ORDER

This Criminal Original Petition has been filed to set aside the order passed by the Judicial Magistrate, Fast Track Court, Poonamallee, dated 05.09.2024 in Crl.M.P.No.6175 of 2024 in S.T.C.No.1053 of 2021, thereby dismissed the application filed under Sections 311 & 315 of Cr.P.C to reopen and examine the defence side witness.

2. The petitioners are the accused in the complaint lodged by the respondent for an offence punishable under Section 138 of N.I in S.T.C.No.1053/2021. After questioning, when the matter was posted for defence side witnesses, the petitioners filed petition for settlement. However, the petitioners failed to settle the cheque amount to the complainant and subsequently, filed petition under Sections 311 & 315 of Cr.P.C. Thereafter, the defence side witnesses was closed and the matter was posted for arguments. At this juncture, the petitioners once again filed an application for settlement. Even after some time, the petitioners failed to settle the cheque amount and as such once again the matter was posted for judgment. At this stage, the petitioners filed an application under Sections 311 and 315 of Cr.P.C to reopen the defence side witness.



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3. The Learned Counsel for the petitioners submits that, in order to putforth their defence, they may be given one more opportunity to examine the witnesses. In similar circumstances, this Court allowed the petitioner to examine the defence witnesses by reopening the complaint filed by one R.Jothi on the file of the Judicial Magistrate, Fast Track Court, Magistrate Level, Poonamallee.

4. The learned counsel for the respondent submits that, out of 40 hearings, the petitioners were absent for 13 hearings when the matter was posted for judgments. With an intention to drag the proceedings, they filed an application for settlement. However, they failed to settle the cheque amount and once again, the matter was posted for judgment. Again, the petitioners filed a petition for settlement. After five hearings, the petitioners failed to settle the amount and as such, the trial Court posted the matter for judgment after arguments. At this juncture, the petitioners filed this petition to recall and reopen the case.



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5. On perusal of the records, it reveals that after the examination of

complainant side witnesses, the matter was posted for questioning under Section 313 of Cr.P.C. At that juncture, the petitioners had filed an application to reopen and recall P.W.1 which was allowed. P.W.1 was cross-examined and thereafter, the matter was posted for defence side evidence. After four hearings, the petitioners filed an application for settlement to settle the entire cheque amount. Considering the same, the trial Court kept the matter pending and given a chance for the petitioner to settle the cheque amount for four hearings. However, the petitioners failed to settle the money and as such, closed the defence side evidence and the matter was posted for arguments. After arguments, when the matter was posted for judgment, the petitioners once again filed an application to reopen for settlement.

6. Considering the above, the trial Court had given chance for the petitioners for more than five hearings. Even then, the petitioners failed to settle the cheque amount and as such, the trial Court posted the matter for judgment to avoid the delay tactics of the petitioners. Therefore, the petitioners filed an applications to settle the cheque amount on two occasions and drag the proceedings for more than 10 hearings. Finally, when the matter was posted for judgment, the petitioners filed an application under Sections 311 and 315 of



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Cr.P.C., to reopen and recall the defence side witness and same was rightly dismissed by the trial court. This Court finds no infirmity or illegality in the order passed by the trial Court.

7. Accordingly, this Criminal Original Petition is dismissed. The trial Court is directed to complete the trial within a period of eight weeks, from the date of receipt of copy of this order. Consequently, connected Miscellaneous Petition is closed.

14.02.2025

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

To

1. The Judicial Magistrate, Fast Track Court, Poonamallee.
2. The Public Prosecutor, High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

bsm

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