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Crl.O.P.No.30949 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.30949 of 2024

and

Crl.M.P.No.17637 of 2024

New Begin Selvakumar

... Petitioner

Vs.

D.Esther Priya

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C./ 528 BNSS 2023, to set aside the order dated 12.11.2024 in Crl.M.P.No.10183 of 2024 in S.T.C.No.1999 of 2022 by the learned Metropolitan Magistrate, Fast Track Court Magisterial Level-IV, George Town, Chennai.

For Petitioner : Mr.P.Tamilavel

For Respondent : Mr.J.Titus Enock

ORDER

This Criminal Original Petition is filed to set aside the order dated 12.11.2024 in Crl.M.P.No.10183 of 2024 in S.T.C.No.1999 of 2022



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passed by the learned Metropolitan Magistrate, Fast Track Court
Magisterial Level-IV, George Town, Chennai.

2. According to the petitioner, the respondent/complainant filed a complaint under Section 138 r/w Section 142 of Negotiable Instruments Act alleging that the petitioner borrowed a sum of Rs.3,00,000/- and in order to discharge his liability, he had given cheques, but when the cheques were presented for collection, the same were returned. Hence, after causing notice, complaint has been filed in S.T.C.No.1999 of 2022 on the file of the Metropolitan Magistrate, Fast Track Court Magisterial Level-IV, George Town, Chennai. It is further submitted that since the respondent had given assurance that she would settle the issue amicably, the petitioner has not cross examined P.W.1 and hence cross examination of P.W.1 was closed. While that being, the petitioner filed a petition in Crl.M.P.No.10183 of 2024 to re-call the complainant (P.W.1) for cross examination. However, the Court below vide order dated 12.11.2024 dismissed the petition with cost. Hence the present petition has been filed.



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3. Learned counsel for the respondent submitted that the respondent was examined in chief on 20.07.2022 itself. At that time the petitioner's counsel made a request before the Court below that they would settle the matter with the respondent and sought for adjournment but neither the petitioner came forward to settle the matter nor cross-examined the witnesses. After two years from the date of closing of cross examination of P.W.1, in order to protract the case, the petitioner has filed a petition to re-call the P.W.1 for cross examination, however the said petition was rightly dismissed by the trial Court.

4. Heard both sides and perused the materials available on record.

5. It is seen from the records that though the trial Court has dismissed the petition by holding that though sufficient time of more than one year was given to the petitioner to cross examine P.W.1, he was not ready either to cross examine P.W.1 or settle the matter.

6. Considering the facts and circumstances and also considering the submissions made by the learned counsel either side, this Court finds



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that the petitioner has not come before this Court with clean hands as he has neither paid the amount nor contested the case and only to protract the case, the petitioner has come forward with the present case. Hence, this Court does not find any infirmity or perversity in the order of the Court below.

Accordingly, this Criminal Original Petition is dismissed.
Consequently, connected miscellaneous petition is closed.

09.01.2025

Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No
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To

The Metropolitan Magistrate,
Fast Track Court Magisterial Level-IV,
George Town, Chennai.



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P.VELMURUGAN, J

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