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Crl.O.P.No.30941 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2025

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.30941 of 2024

and

Crl.M.P.No.17632 of 2024

K.Vairavel

... Petitioner

Vs.

R.Nithya

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C./ 528 BNSS 2023, to set aside the order dated 24.10.2024 made in Crl.M.P.No.2099 of 2024 in C.C.No.196 of 2022 on the file of the Judicial Magistrate, Fast Track Court (Magisterial Level) Alandur.

For Petitioner : Mr.J.Hari Haran
for M/s.KV Law Firm

For Respondent : No appearance

ORDER

This Criminal Original Petition is filed to set aside the order dated 24.10.2024 made in Crl.M.P.No.2099 of 2024 in C.C.No.196 of 2022 on the file of the Judicial Magistrate, Fast Track Court (Magisterial Level)



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Alandur.

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2. According to the petitioner, the respondent/complainant filed a private complaint under Section 200 Cr.P.C on the file of the Judicial Magistrate, Fast Track Court, Alandur in C.C.No.196 of 2022 alleging that an offence is said to have been committed by the petitioner/accused herein under Section 138 of Negotiable Instruments Act. During trial, the petitioner was examined himself as R.W.1 and marked documents and the case was posted for further evidence on the side of the prosecution. At that stage, to prove his case, the petitioner has filed a petition in CrI.M.P.No.2099 of 2024 under Section 145(2) of Negotiable Instruments Act praying to issue summons to the Branch Manager, State Bank of India (previously State Bank of Mysore) Salem, to examine as defence side witness and for production of Statement of Account of the respondent for a period 01.01.2015 to 31.12.2020. However, the trial Court failed to appreciate the scope of the Proviso of Section 145(2) of Negotiable Instruments Act and dismissed the petition by holding that summoning of the Branch Manager would not help the petitioner to prove the transactions stated by the petitioner. Assailing the said order, the present petition is filed.



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4. Considering the facts and circumstances and also considering the submission made by the learned counsel for the petitioner, this Court is of the view that the grounds taken by the petitioner is a matter for trial and there is no perversity in the order passed by the trial Court. Hence, this Court is not inclined to entertain this petition by invoking Section 528 BNSS. It is left open to the petitioner to take all his defence before the trial Court during trial.

5. 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 Judicial Magistrate,
Fast Track Court (Magisterial Level)
Alandur.



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P.VELMURUGAN, J

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