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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2025

CORAM:

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

Crl.O.P.No.4 of 2025
and Crl.M.P.No.9 of 2025

V.Prakash ... Petitioner

Vs.

S.Sivaselvi ... Respondent

Prayer: Criminal Original petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records relating to the impugned order dated 30.08.2024 passed in Crl.M.P.No.2543 of 2024 in S.T.C.No.2385 of 2019 on the file of the learned Judicial Magistrate (Fast Track) Court, Tiruppur and set aside the same.

For Petitioner : Mr.S.Sriram

For Respondent : No appearance

ORDER

This petition has been filed challenging the order dated 30.08.2024 passed by the learned Judicial Magistrate (Fast Track) Court, Tiruppur in Crl.M.P.No.2543 of 2024 in S.T.C.No.2385 of 2019, thereby partly allowed the petition filed by the respondent under Section 91 of

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Cr.P.C.

2. The respondent is an accused in the complaint lodged by the petitioner for the offence punishable under Section 138 of Negotiable Instruments Act. In the cross examination of P.W.1 viz., the petitioner, he categorically admitted that he did not file any income tax return in respect of the amount lent to the respondent to the tune of Rs.5,50,000/-. Even then, the respondent filed application under Section 91 of Cr.P.C., for production of statement of account from 01.01.2018 to 01.06.2018, pan card, GST and registration certificate of the petitioner's shop, income tax returns for the year 2018-19 & 2019-20 and tax assessment. After enquiry, the trial Court allowed the said application partly and directed the petitioner to produce pan card and income tax return for the year 2018-19 & 2019-20 and also the petitioner's shop registration certificate. Challenging the same, the petitioner filed the present petition.

3. Heard the learned counsel appearing for the petitioner and perused the materials placed before this Court. Though notice served on the respondent and his name is also printed in the cause list, no one is appeared before this Court either in person nor through pleader.

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4. On perusal of the cross-examination of P.W.1 revealed that the petitioner categorical admitted that the amount which was lent to the respondent to the tune of Rs.5,50,000/- was not shown in the income tax return. Therefore, need not to produce income tax return to prove that the sum of Rs.5,50,000/- was not shown in the income tax return. Further insofar as the pan card and registration certificate of the petitioner's shop are concerned, both are no way connected to the facts of the case. Even then, the trial Court mechanically allowed the petition partly. Therefore, this Court finds infirmity in the order passed by the trial Court and it cannot be sustained and liable to be set aside.

5. Accordingly, the order dated 30.08.2024, passed by the learned Judicial Magistrate (Fast Track) Court, Tiruppur in Crl.M.P.No.2543 of 2024 in S.T.C.No.2385 of 2019, is hereby set aside. The trial Court viz., the learned Judicial Magistrate (Fast Track) Court, Tiruppur, is directed to dispose the case in S.T.C.No.2385 of 2019, within a period of three months from the date of receipt of a copy of this Order.

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6. With the above directions, the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

07.02.2025

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

rts

To

1. The Judicial Magistrate (Fast Track) Court,
Tiruppur

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G.K.ILANTHIRAIYAN, J.

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