



Crl.OP.(MD) No.2063 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.02.2025

CORAM

THE HONOURABLE **MR.JUSTICE P.DHANABAL**

Crl.OP(MD)No.2063 of 2025

and Crl.M.P(MD) No.1405 of 2025

Mala

... Petitioner

Vs

S.Senthilrajan

... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS, 2023, praying to call for the records in connection with the order passed by the learned Judicial Magistrate (FTC) Magistrate Level, Karur in C.M.P.No.916 of 2024 in S.T.C.No.239 dated 30.12.2024 and 06.01.2025 and set aside the same by allowing this petition.

For Petitioner : Mr.S.Sivaprakash

For Respondents : Mr.Arun
,
for Ms. Sheela

ORDER

This petition has been filed by the petitioner challenging the order passed in Crl.M.P.No.916 of 2024 in S.T.C.No.239 of 2023 dated 30.12.2024 and 06.01.2025. Wherein, the petitioner had filed a petition to reopen the defence side evidence and permit to adduce the witness, and



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the same was allowed on condition to pay a sum of Rs.500/- to the complainant and to adduce evidence on 06.01.2025. But on that date, the petitioner has not appeared and no representation for the petitioner. Hence, the Trial Court dismissed the petition. Challenging the said order, the present petition is filed.

2. The learned counsel appearing for the petitioner would submit that the petitioner is the accused in STC.No.239 of 2024 on the file of the learned Judicial Magistrate (Fast Track Court), Karur and already the complaint side evidence was closed. Thereafter, in order to examine the defence side witness, they filed a petition in C.M.P.No.916 of 2024 and the same was allowed on payment of cost and also on condition to adduce evidence on 06.01.2024. In fact, the petitioner is working as a Head Mistress and unfortunately, she received a proceedings from the higher authorities to attend training on 06.01.2025 and 07.01.2025. Therefore, she was unable to attend the Court and thereby, the Trial Court dismissed the petition. Hence, the non appearance of the petitioner on the fixed date is neither willful nor wanton and in order to give a fair chance to the petitioner, this petition may be allowed.



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3. The learned counsel appearing for the respondent would submit that the complaint was registered in the year 2022 and the petitioner has filed this petition only to delay the proceedings. Already, the Trial Court has allowed the petition to adduce evidence on the defence side on condition to pay a sum of Rs.500/- to the complainant and to adduce evidence on 06.01.2025. But, the petitioner only to delay the proceedings wantonly, she failed to comply with the conditional order passed by the Trial Court. Therefore, the petition is liable to be dismissed.

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

5. In this case, it is an admitted fact that already the Trial Court has permitted the petitioner to adduce evidence on condition to pay a sum of Rs.500/- towards costs and also permitted to adduce evidence on 06.01.2025. But on that day, the petitioner attended training as per the order of the higher authorities and thereby, she failed to appear before the Trial Court. To substantiate her contention, she also produced the copy of the order on Na.Ka.No.994/a3/2024 dated 31.12.2024. On a careful perusal of the said order, it reveals that training was fixed on 06.01.2025 and 07.01.2025. Since already the Trial Court allowed the petition by



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considering the merits of the case and passed the conditional order, due to the unavoidable circumstances, the conditions have not been complied with. In order to give fair chance to the petitioner, it is appropriate to allow this petition by setting aside the order of trial Court dated 06.01.2025 on the same condition to pay a sum of Rs.500/- towards costs to the complainant within one week and also to appear before the Trial Court on the next date of hearing to examine the witnesses without fail. Accordingly ordered.

6. With the above said observations and direction, this Criminal Original Petition is disposed of. No costs. Consequently, connected Criminal Miscellaneous Petition stands closed.

05.02.2025

Internet :Yes
Index :Yes/No
NCC :Yes/No
mac

Note: Registry is directed to issue a copy of this order on 07.02.2025.



WEB COPY



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P.DHANABAL, J.

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