



Crl.O.P(MD)No.4867 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.03.2025

CORAM

THE HONOURABLE MR.JUSTICE P. DHANABAL

Crl.O.P(MD)No.4867 of 2025
and Crl.M.P(MD) No.3512 of 2025

Joshua Christopher

... Petitioner

Vs

O.Malarvizhi

... Respondent

PRAYER: Criminal Original petitions have been filed under Section 528 of BNSS to call for the records pertaining to the impugned order passed in Cr.M.P No. 10352 of 2024 in STC No. 278/2021 on the file of the learned Judicial Magistrate court No.1, (Fast track), Madurai and set aside the same and allow the direction petition.

For Petitioner : Mr.R.Karunanidhi

ORDER

This Criminal Original Petition has been filed to set aside the impugned order passed in Cr.M.P.No. 10352 of 2024 in STC No. 278/2021, on the file of the learned Judicial Magistrate No.1, (Fast Track), Madurai.

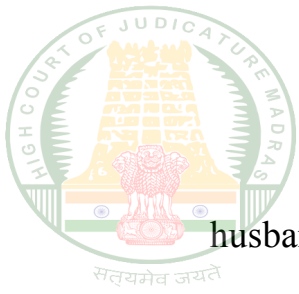


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2.The learned counsel appearing for the petitioner would submit that the petitioner is an accused in STC No.278 of 2021 and filed a petition to recall the witness of P.W.1 for further cross examination and the same was dismissed by the trial Court. In fact, the respondent/P.W.1, who is the complainant in this case, has deposed before the Court that she has paid a sum of Rs.4 lakhs (Rs.3,80,000/- from the maintenance amount paid by her husband and Rs.20,000/- from her hands). The petitioner has failed to cross-examine the respondent about the source of amount. Hence, seeks for further cross examination of P.W.1, which is essential to prove the case of the petitioner. However, the trial Court had failed to consider the same and dismissed.

3.Considering the prayer of the petitioner, this Court is inclined to dispose of the petition without issuing notice to the respondent at the admission stage itself.

4.According to the petitioner, already P.W.1 was cross-examined and as per P.W.1, she paid a sum of Rs.4 lakhs to the petitioner by drawing an amount Rs.3,80,000/- from the bank account and Rs. 20,000/- from her hands and the said Rs.3,80,000/- was paid by her



husband towards maintenance amount. However, there are no records to prove the same. In this regard, the petitioner has to put question to P.W.1 to establish the said fact.

5.Once the complainant/P.W.1 paid the amount and filed a cheque case, it is for the complainant to prove the source of income. For that purpose, witness need not be recalled for cross-examination and the petitioner can put forth his argument before the trial Court. In this regard, P.W.1 has also produced the bank statement (Ex.P.8), therefore, it is for the trial Court to take appropriate decision based on the bank statement of the complainant and about the payment made by the complainant to the petitioner.

6.The trial Court in the impugned order has also discussed that Ex.P.8, bank statement of PW1 was already marked and P.W.2, who was the Bank Manager was also elaborately cross-examined and P.W.1 was also cross-examined twice and the petitioner has also not specifically stated about the particulars for cross-examination.



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7.In view of the above, the trial Court has passed a very reasoned order. This Court finds that there is no merits in this petition and deserves to be dismissed. However, it is for the trial Court to decide the case in accordance with law with available evidence. Accordingly, this petition stands dismissed. Consequently, connected miscellaneous petition is closed.

17.03.2025

Internet :Yes
Index :Yes/No
NCC :Yes/No
PNM

To

1.The Judicial Magistrate court No.1, (Fast Track), Madurai

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P. DHANABAL, J.

PNM

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