

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 05.04.2017
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Crl.O.P.No.5544 of 2017
and Crl.M.P.No.4142 of 2017

Deenadhayalan

[Petitioner]

Vs

Viswanathan

[Respondent]

Petition filed under Section 482 of the Criminal Procedure Code, to set aside the order passed by the learned Judicial Magistrate No.1, Mannargudi in Crl.M.P.No.7074 of 2016 in S.T.C.No.440 of 2013 dated 20.09.2016.

For Petitioner : Mr.S.Jayaseelan

O R D E R

Challenging the order dated 20.09.2016 passed by the learned learned Judicial Magistrate No.1, Mannargudi in Crl.M.P.No.7074 of 2016 in S.T.C.No.440 of 2013, the present Criminal Original Petition came to be filed.

2.It is the case of the petitioner that he is facing trial before the learned Judicial Magistrate No.I, Mannargudi in S.T.C.No.440 of 2013 for the alleged offence punishable under Section 138 of the Negotiable Instruments Act. During the course of trial, he filed a petition in C.M.P.No.7074 of 2016 under Section 311 Cr.P.C seeking to cross examine PW1. However, the said petition was dismissed by the learned Judicial Magistrate No.I, Mannargudi, by the order impugned herein. Hence, this petition by the petitioner.

3.Heard the learned counsel for the petitioner.

4.A perusal of the order impugned in this petition would reveal that the petitioner has approached the learned Magistrate concerned for cross examination of PW1 by filing Section 311 Cr.P.C petition, in the year 2016, when already he was granted many opportunities earlier. It is seen that the petitioner herein was already granted permission on 26.09.2014 to file his reply. Further, his earlier petition was allowed to pave way for

him to examine P.W.1. Further on 07.11.2014, P.W.1 was examined by the petitioner herein. Finally, after several adjournments, the case was posted two times in the month of June 2016 and two times in the month of July 2016 and finally it was posted on 04.08.2016 for cross-examination. Without availing those opportunities, the petitioner has filed the petition under Section 311 Cr.PC before the Trial Court. Hence the Trial Court dismissed the petition on the ground that the same was filed only to drag on the proceedings. This Court finds no reason to interfere with the order so passed by the learned Magistrate, as the same is perfectly correct and in accordance with law.

5.In the result, this petition stands dismissed. Consequently, the connected miscellaneous petition is closed.

-s/d-
Assistant Registrar(CSV)

True Copy

Sub-Assistant Registrar

KM

To

The Judicial Magistrate No.1, Mannargudi.

Cr1.O.P.No.5544 of 2017
and
Cr1.M.P.No.4142 of 2017

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