



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 07.03.2017

CORAM

THE HON'BLE MR. JUSTICE P.N. PRAKASH

CrI.O.P. (MD) No.23618 of 2016

WEB COPY

P.Ajayakumar

... Petitioner/Complainant

-vs-

R.Natarajan

... Respondent/Accused

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to allow this petition and set aside the order passed in C.M.P.No.5548 of 2016 in C.C.No.40 of 2008 on the file of the Judicial Magistrate, Padmanabhapuram dated 07.10.2016.

For Petitioner : Mr.C.K.M.Appaji

For Respondent : Mr.G.Aravinthan

O R D E R

This petition has been filed to set aside the order passed in C.M.P.No.5548 of 2016 in C.C.No.40 of 2008 on the file of the Judicial Magistrate, Padmanabhapuram dated 07.10.2016

2. The petitioner has launched a prosecution in C.C.No.40 of 2008 before the learned Judicial Magistrate, Padmanabhapuram under Section 138 of Negotiable Instruments Act against the respondent. After completion of the petitioner's side evidence, the respondent / accused was examined under Section 313 Cr.P.C. and thereafter, the respondent examined D.W.1 in the year 2012. From 2012 to 2016, the petitioner / complainant was given sufficient opportunity to cross examine D.W.1.

3. Ultimately, on 24.06.2016, evidence of D.W.1 was closed. Thereafter, the petitioner/complainant filed an application in C.M.P.No.5548 of 2016 in C.C.No.40 of 2008 for recalling D.W.1 for the purpose of cross examination. Even in the petition filed by the petitioner/complainant, he has not given any good reason for not cross examining D.W.1.

4. The accused has also got a right of fair trial, inasmuch as from 2008 to 2016, the accused has been facing the prosecution. The accused examined D.W.1 in the year 2012 and till 2016, the petitioner/complainant had not chosen to cross examine D.W.1. Therefore, this Court does not find any infirmity in the order passed by the Court below, warranting interference by this Court.



5. In the result, this Criminal Original Petition is devoid of merits and the same is dismissed accordingly. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar (ADII)

/True Copy/

Sub-Assistant Registrar

To:

1. The Judicial Magistrate,
Padmanabhapuram

2. Do through the Chief Judicial Magistrate,
Kanyakumari District at Nagercoil

+One cc to Mr.C.K.M.Appaji, Advocate, SR.No.13406

+One cc to Mr.G.Aravinthan, Advocate, SR.No.13069

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RL/5C/2P/RR/14.3.2017

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