

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.11369 of 2018
and
Crl.M.P.No.5884 of 2018

Mr.M.K.Pandian Petitioner/Accused

Mr.A.Balasubramanian Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to set aside the order dated 23.03.2018 passed in C.M.P.No.1117 of 2018 in STC No.28 of 2016 pending on the file of the learned Judicial Magistrate, Fast Track Magisterial Level Ambattur.

For Petitioner :Mr.K.Ram Kumar

ORDER

The petitioner is facing prosecution in S.T.C.No.28 of 2016 before the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Ambattur, under Section 138 of the Negotiable Instruments Act. PW1 was examined by proof affidavit and cross examined on 06.03.2017 and 12.04.2017. Thereafter, the accused was examined under Section 313 of Cr.P.C. and two witnesses were examined as DW1 and DW2. When the case was posted for arguments, the accused has filed an application in Crl.M.P.No.1117 of 2018 in S.T.C.No.28 of 2016, under Section 311 of Cr.P.C. to recall PW1 on the ground that there is a lacuna in the cross examination. The trial Court has dismissed Crl.M.P.No.1117 of 2018 on 23.03.2018. Aggrieved by which, the petitioner/accused is before this Court.

2.Heard Mr.K.Ram Kumar, learned counsel appearing for the petitioner, who would submit that some important questions have not been asked during the cross examination and therefore, PW1 has to be recalled.

3.This case is of the year 2009 and ultimately, it was transferred to the Fast Track Court in the year 2016 and has been numbered as S.T.C.No.28 of 2018.

4.In A.G. v. Shiv Kumar Yadav and another reported in [(2015) 9 Scale 649], the Hon'ble Supreme Court has clearly stated that the power under Section 311 of Cr.P.C. cannot be invoked at the mere asking of the party.

5.In this case, the accused has not made out any reasonable grounds for recalling PW1, who has already been cross examined on two days namely, on 06.03.2017 and 12.04.2017.

In the result, this Criminal Original Petition is devoid of merits and the same is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

mps

To

The Judicial Magistrate,
Fast Track (Magisterial Level),
Ambattur

+1cc to Mr.K.Ram Kumar, Advocate sr.no.27943

Cr1.O.P.No.11369 of 2018
and
Cr1.M.P.No.5884 of 2018

sj (co)
nr 28/04/2018

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