

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.27814 of 2018 and
Crl.M.P.No.16093 of 2018

S.Vaidyanathan ...petitioner/Accused

..Vs..

M/s.Ambay finance,
Prop-Mr. Ashok Kumar Jain,
No.9, Trevelyan Basin Street,
Sowcarpet, Chennai 600 079. ...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the order dated 29.10.2018 passed in Crl.M.P.8010 of 2018 in C.C.No.3888 of 2017 on the file of Metropolitan Magistrate, FTC-IV, George Town, Chennai 600 001.

For Petitioner : Mr.N.R.Rajagopalan

For Respondent : Mr.B.Chandran

ORDER

This Criminal Original Petition has been filed against the dismissal of the application filed by the petitioner under Section 311 of Cr.P.C., to recall and cross examine PW1.

2. The petitioner is facing trial before the Court below for offence under Section 138 Negotiable Instrument Act. The complaint had examined himself as PW1. The petitioner did not cross examine PW1 inspite of being given sufficient opportunity. Therefore, the evidence of PW1 was closed. The petitioner thereafter filed a petition under Section 311 of Cr.P.C., to recall and cross examine PW1, the Court below has dismissed the said petition on the ground that the petitioner is dragging on the proceedings and the petitioner did not cross examine PW1 inspite of being given sufficient opportunity.

3. In the facts and circumstances of the case, this Court is of the considered view that one last opportunity can be

given to the petitioner to cross examine PW1, since the petitioner has to rebut the presumption under Section 139 of Negotiable Instruments Act.

4. The order passed by the Court below in CrI.M.P.8011 of 2018, dated 29.10.2018 is hereby set aside. PW1 shall be present before the Court below on 19.12.2018 and on the same day, the learned counsel for the petitioner shall cross examine PW1 and complete the cross examination. The Court below shall complete the proceedings within a period of two months from the receipt of the copy of this order .

5. This Criminal Original Petition is disposed of with the above directions. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

tta/ub

To

1.The Metropolitan Magistrate,
FTC-IV, George Town,
Chennai 600 001.

2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.T.R.Rajagopalan, Advocate, S.R.No.84291

CrI.O.P.No.27814 of 2018

GN(20/12/2018)

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