

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2018

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No.29211 of 2018 &
CrI.M.P.No.17110 of 2018

J.V.R.Food Products

Rep. By its Managing Director,

E.P.Jayaraman aged 64 years,

Head Office at

107/47/1, Kulamangalam Main Road,

S.Alankulam,

Madurai-625 017.

.... Petitioner

Vs.

S.Gopalasamy

.... Respondent

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in CMP.No.8973 of 2018 in STC No.830 of 2010 pending on the file of the learned Judicial Magistrate No.2, at Pollachi and set aside the order dated 28.11.2018.

For Petitioner : Mr.M.Raja Sekhar

ORDER

This Criminal Original Petition has been filed dismissing the petition filed by the petitioner under Section 311 of Cr.P.C. To recall and cross examination of PW1.

2.The petitioner is facing trial before the Court below for an offence under Section 138 of Negotiable Instruments Act. This complaint has been filed in the year 2010. PW1 has been examined-in-chief on 08.06.2012. After nearly six years, petition has been filed for recalling PW1 for cross-examination.

3.The Court below has dismissed the petition on the ground that PW1 was examined in chief on 16.12.2011 and for nearly one year, he was not cross-examined and therefore, left with no other option, the evidence of PW1 was closed on 08.06.2012. That apart, this petitioner did not appear before the Court below from 17.12.2012 onwards. Therefore, a Non Bailable Warrant was

issued against him and the petitioner ultimately surrendered before the Court below only on 03.10.2018 and the Non-Bailable Warrant was recalled. Even thereafter, the matter was adjourned on four occasions without any progress. Ultimately, the petitioner filed a petition under Section 311 of Cr.P.C., after nearly seven years from the date on which PW1 was examined-in-chief. Thereafter, the Court below found that the conduct of the petitioner would not deserve any consideration for recalling and cross-examination of PW1.

4.This Court does not find any irregularity or infirmity in the order passed by the Court below. The Court below was perfectly right in dismissing the petition filed by the petitioner to recall PW1 for cross-examination and there is absolutely no ground to interfere with the order passed by the Court below.

5.In the result, this Criminal Original Petition is dismissed and the Court below is directed to complete the proceedings in S.T.C.No.830 of 2010, within a period of two months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is dismissed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.2, Pollachi.

2. -do - Through The Chief Judicial Magistrate, Coimbatore

3.The Public Prosecutor, High Court, Chennai.

+1cc to M/s.M.Rajasekhar, Advocate SR.No.86509

Crl.O.P.No.29211 of 2018
& Crl.M.P.No.17110 of 2018

SKV (CO)
GMY (28/12/2018)