



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Cr1.O.P[MD]No.1208 of 2018

and

Cr1.M.P.[MD]No.503 of 2018

Mahendran : Petitioner
Vs.
Vimala : Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., praying to call for the records of the order in Cr1.R.P.No.43 of 2017 in Cr.M.P.No.5730 of 2017 in S.T.C.No.346 of 2016 dated 27.11.2017, on the file of the Vth Additional District & Sessions Judge, Madurai and set aside the same.

For Petitioner : Mr.A.Haja Mohideen
For Respondent : Mr.D.Balamurugapandi

O R D E R

This petition has been filed challenging the order passed by the Court below permitting the accused person to recall and re-examine P.W.1. The petitioner is the complainant in a 138 complaint and the respondent is the accused. The petitioner examined one witness on his side as P.W.1. The respondent did not cross examine the said witness after the examination in chief. Therefore, the Court below thought it fit to give an opportunity to the respondent to cross examine P.W.1. This order has been challenged by the complainant.

2.Considering the facts and circumstances of the case, since the respondent has to rebut the presumption under Section 139 of the Negotiable Instruments Act, sufficient opportunity must be given to the respondent to defend the case. Therefore, this Court does not find any illegality or infirmity in the order passed by the Court below in permitting the respondent to cross examine P.W.1.

3.It is represented by the learned Counsel for the respondent that the case is posted on 12.09.2018. On that day, the Court below shall fix a date for the appearance of the complainant and on the very same day, when the complainant appears before the Court, respondent is directed to complete the cross examination. If for any reason, the respondent does not cross examine P.W.1, on the date of appearance, the respondent shall forfeit his right to cross examine P.W.1 thereafter.



4.The Criminal Original Petition is disposed of, with the above direction. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

WEB COPY

/True Copy/

Sub Assistant Registrar(CS-II)

To

The V Additional District & Sessions Judge,
Madurai.

+1cc to Mr.D.Balamurugapandi, Advocate Sr.No.83485

MR

VB/RP/SAR2/04.10.2018/2P/3C

Cr1.O.P.[MD]No.1208 of 2018

10.09.2018