



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2019

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.4347 of 2014

and

M.P No.1 of 2014

Y.Mariya Baskaran

...Petitioner

Vs.

P.Ravichandran

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records relating to the order dated 18.11.2013 made in STC No.274 of 2012 on the file of the learned Judicial Magistrate, Fast Track Court No.II, Erode and set aside the same by allowing this Criminal Original Petition.

For Petitioner : Mr. N.Manokaran

For Respondents : Mr. Sugenthiran

ORDER

This petition has been filed challenging the order passed by the Court below dismissing the application filed by the petitioner under Section 311 of Cr.P.C to recall PW1 for further chief examination and to mark certain documents.

2. The petitioner has filed a complaint under Section 138 of Negotiable Instruments Act and during the course of the proceedings examined PW1 and he was also cross examined. Subsequently, a petition came to be filed under Section 311 of Cr.P.C to recall PW1 for further chief examination. This petition has been dismissed by the Court below.

3. The Court below has taken into consideration the fact that this petition was filed after nearly four years after filing of the complaint and the petitioner has not given sufficient reasons as to why he waited for such a long time to recall PW1 for further chief examination.

4. The learned counsel submitted that the petitioner as the complainant must be given an opportunity to bring on record all the relevant documents and no prejudice will be caused to the respondent since the respondent will have an opportunity to



cross examine the witness.

5. The learned counsel for the respondent submitted that the petitioner has been dragging on the proceedings from the year 2012 onwards and there are absolutely no grounds to interfere with the order passed by the Court below.

6. This Court has carefully considered the submissions made on either side and the materials available on record.

7. Taking into consideration the facts and circumstances of the case, this Court deems it fit to give one last opportunity to the petitioner to recall PW1 for further chief examination. By giving this opportunity, the respondent will not be prejudiced since he is always entitled to cross examine PW1.

8. The order passed by the Court below in Cr.M.P.No.5285 of 2013 dated 18.11.2013 is hereby set aside. The Court below is directed to recall PW1 for further chief examination and the respondent shall be given an opportunity to cross examine PW1.

9. In the result, this Criminal Original Petition is allowed and the Court below is directed to complete the proceedings in S.T.C No.274 of 2012 within a period of three months from the date of receipt of copy of this order.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate,
Fast Track Court No.II, Erode.

2.do Thro The Chief Judicial Magistrate,
Erode.

+1cc to Mr.N.Manokaran, Advocate, S.R.No. 54689

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VD(CO)
GN(19/08/2019)