

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 21.08.2019
CORAM
THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.22421 of 2019
and Crl.M.P.No.11660 of 2019

P.Arjunan

... Petitioner

Vs.

A.Madhesh

..Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set-aside the order in C.M.P.No.1804 of 2019 in STC No.351 of 2018 dated 08.07.2019 passed by the Judicial Magistrate cum District Munsiff, Valapady, Salem District.

For Petitioner : Mr.L.Rajendran

O R D E R

This petition has been filed challenging the order passed by the Court below allowing the petition filed by the respondent under Section 311 of Cr.P.C. to reopen the evidence and to mark the promissory note that is said to have been executed by the petitioner.

2.The petitioner is facing trial before the Court below for an offence under Section 138 of the Negotiable Instruments Act. The evidence was completed and the case was at the stage of final hearing. At that stage the respondent filed an application under Section 311 of Cr.P.C. in order to mark the promissory note that is said to have been executed by the petitioner. The respondent took the plea that due to oversight, this document was failed to be marked during the course of trial.

3.The Court below allowed the application on the ground that a fair opportunity must be given to mark the document and the petitioner will always get an opportunity to cross-examine the respondent on the said document.

4.The learned counsel for the petitioner submitted that the respondent is attempting to bring in a new case and at no point of time, the respondent took the plea that the petitioner has executed any promissory note in his favour. The learned counsel

submitted that the respondent is trying to fill up the lacuna by taking advantage of filing an application under Section 311 of Cr.P.C.

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

6.This Court does not find any illegality or infirmity in the order passed by the Court below. The petitioner will get a fair opportunity to cross-examine the respondent on the promissory note that is sought to be marked. The petitioner can always question the relevancy, admissibility and proof of the document at the time of marking of the document. This Court does not find any reason to interfere with the order passed by the Court below.

7.In the result this criminal original petition is dismissed and the Court below is directed to complete the proceedings in STC No.351 of 2018 within a period of three months from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

ssr

To

1. The Judicial Magistrate cum District Munsiff,
Valapady, Salem District.

+1 cc to Mr.L.Rajendran Advocate sr72061

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