

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.26092 of 2017
and
CRL.M.P.No.15013 of 2017

S.SudharsanPetitioner/Accused

Vs.

T.SelvarajRespondent /Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the order passed in Crl.M.P No.6345 of 2017 dated 08.09.2017 by Metropolitan Magistrate Fast Track-IV, George Town, Chennai pending trial in C.C.No.1187 of 2015 on the file of Metropolitan Magistrate Fast Track-IV, George Town, Chennai in so far as dismissing the recall witnesses petition filed by the petitioner under Section 311 of Cr.P.C.

For Petitioner : Mr.C.V.Kumar

ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below dismissing the application filed under Section 311 of Cr.P.C to recall PW1 for cross examination.

2. The petitioner is facing trial before the Court below for an offence under Section 138 of Negotiable Instruments Act. The proceedings were initiated and cognizance was taken in the year 2015.

3. It is seen from the records that the respondent had filed a proof affidavit on 05.10.2016 and inspite of several opportunities, he was not cross examined and therefore, his evidence was closed on 20.03.2017. The case was thereafter posted for defence witness and it was

pending till April 2017. At that point of time, a petition was filed under Section 311 of Cr.P.C. to recall PW1 and the same was allowed on 15.05.2017. The petitioner was granted several opportunities to cross examine PW1 and on 27.06.2017, the petitioner partly cross examined PW1 and again requested for time. The case was posted to 18.02.2017 and on that day, the evidence of PW1 was closed.

4. Thereafter, again the petitioner has filed a petition under Section 311 of Cr.P.C to recall PW1 for cross examination. The Court below has dismissed the application on the ground that the petitioner failed to utilise several opportunities that were given to him to cross examine PW1 and the present petition lacks bonafides.

5. The learned counsel for the petitioner submitted that one last opportunity can be given to the petitioner to further cross examine PW1. The learned counsel further submitted that any time limit can also be fixed by this Court for completion of the proceedings.

6. The facts narrated above would clearly show that the petitioner was not serious in cross examining PW1 inspite of several opportunities being given to him. Earlier, a petition was filed under Section 311 of Cr.P.C and the same was allowed and thereafter, the petitioner was again given opportunities to cross examine PW1 and the petitioner partly cross examined PW1 and again started seeking adjournment. Therefore, the evidence of PW1 was closed. It is clear that the petitioner only wants to drag on the proceedings and there are absolutely no bonafides on the part of the petitioner.

7. This Court does not find any illegality or infirmity in the orders passed by the Court below and no grounds to interfere with the same.

8. In the result, this Criminal Original Petition is dismissed and the Court below is directed to complete the proceedings in C.C.No.1187 of 2015 within a period of two months from the date of receipt of copy of this order. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(insp cell)

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Sub Assistant Registrar

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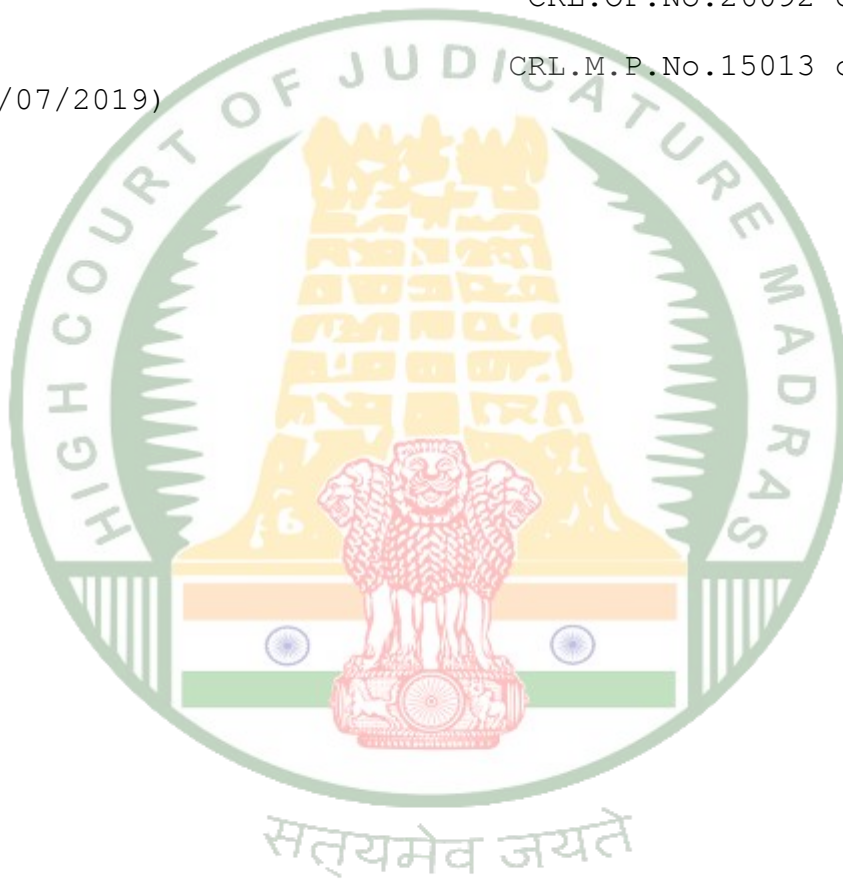
The Metropolitan Magistrate
Fast Track Court No-IV,
George Town,
Chennai-600 001.

2.do thro the Chief Judicial Magistrate,Egmore, chennai

CRL.OP.No.26092 of 2017
and

CRL.M.P.No.15013 of 2017

A.SK(15/07/2019)



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