

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.27617 of 2017
in Crl.M.P.No.15763 of 2017

1.N.S.Rathinam & Sons
Partnership Firm,
Rep. by its Partner,
Mr.R.Chandrasekaran,
No.291, M.T.H.Road,
Avadi, Chennai - 600 054.

2.R.Chandrasekaran,
Partner,
M/s.N.S.Rathinam and Sons,
No.32 & 34, V.N.Doss Road,
Mount Road,
Chennai - 600 002.

3.Mrs.R.Akkammal
Partner
M/s. N.S.Rathinam and Sons,
No.291, M.T.H Road,
Avadi, Chennai - 600 054

...Petitioners/Accused

-Vs-

Smt.Badam Kavar
Rep. by her Power of Attorney Holder
Mr.Deepak Jain
No.57, New No.26, Taylors Road
Rems Street, Kilpauk
Chennai - 600 010.

... Respondent/Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to set aside the order dated 17.11.2017 made in Crl.M.P.No.7876 of 2017 in C.C.No.3766 of 2009 on the file of the Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai.

For Petitioners : M/s.M.Shankarnath

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 PW.1 for cross examination.

2. The petitioner is facing trial before the Court below, for an offence under Section 138 of Negotiable Instruments Act.

3. It is seen from records that the proof affidavit of PW.1 was filed in the year 2010 and after nearly seven years, the petitioner has filed an application to recall PW.1 for cross examination. The Court below has taken into consideration the enormous delay without any explanation and has proceeded to dismiss the petition.

4. This Court does not find any illegality or infirmity in the order passed by the Court below and there are no grounds to interfere with the same. This Court also takes into consideration the fact that Non Bailable Warrant was pending against this petitioner for nearly five years and he was not appearing before the Court below. Therefore, there is absolutely no bona fides on the part of the petitioner.

5. In view of the above, this Criminal Original Petition is dismissed and the Court below is directed to proceed further with the case and complete the proceedings in C.C.No.3766 of 2009, on the file of the Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai, within a period of two months from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Insp.cell)

//True copy//

Sub Assistant Registrar

ub/msrm

To

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

+1cc to Mr.M/s.M.Shankarnath, Advocate SR.No.49001

Cr1.O.P.No.27617 of 2017

RSI (CO)

GMV(12/07/2019)