

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 02.01.2019

CORAM:
THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CrI.O.P. No.27072 of 2018
and
CrI.MP.Nos.15621 & 15624 of 2018

1.M/s.Kalasa Estate
Rep, by its Partners
S.O.Siva Subramaniam &
S.O.S.Sockalingam

2.S.O.Siva Subramaniam
Partner Kalasa Estate

3.S.O.S.Sockalingam
Partner Kalasa Estate

.. Petitioners/A1 to 3

. Vs .

M/s.Bombay Burmah Trading
Corporation Ltd,
Mudis, Valparai,
Rep.by its Manager (Legal & HR)
Ms.Menaka Chinnathambi

..Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed in CrI.M.P.No.2462 of 2016 in STC No.471 of 2015 dated 08.10.2018 by the learned District Munsif Cum Judicial Magistrate, Valparai.

For Petitioners: Mr.S.Karthikeyan

For Respondent : Mr.A.Sasidharan

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 further cross examination.

2. The petitioners are facing trial before the Court below for an offence under Section 138 of the Negotiable Instruments Act. The complaint was filed in the year 2014, and the complainant was examined as PW-1 on 17.11.2014, and documents were marked. PW-1 was cross examined on 05.02.2017

and Exs.D-1 to D-3 were also marked through PW-1. Thereafter the final arguments were heard, and the case was adjourned for pronouncing judgment. In the meantime the amendment was introduced in the Negotiable Instruments Act, in the year 2015, and therefore the case was transferred to the file of the District Munsif cum Judicial Magistrate, Valparai, and taken on file in STC No.471 of 2015. The case was at the stage of final hearing and the respondent submitted the written arguments and the petitioners were taking time to file the written arguments. At that point of time a petition came to be filed by the petitioners under Section 311 of Cr.P.C for recalling and further cross examination of PW-1.

3. Earlier a petition in CMP.No.1047 of 2015, was filed for the very same purpose and the same was dismissed as not pressed. The Court below has given a categorical finding that when the petitioners have already cross examined PW-1 and also marked three documents through him and full opportunity has already been given to the petitioners to cross examine PW-1, there was no reason assigned by the petitioners for recalling PW-1 for further cross examination after a very long time and more particularly, when the case is at the stage of final arguments.

4. This Court is not able to find any illegality or infirmity in the order passed by the Court below. The petitioners had already been given an opportunity to cross examine PW-1, and during the course of cross examination three documents have been marked by the petitioners. Earlier the case was at the stage of final hearing in the year 2015 itself. Thereafter by change of jurisdiction it was transferred to the present Court and again it was at the stage of final hearing and at that point of time, the present petition has been filed seeking for recalling PW-1 for further cross examination. This Court does not find any ground to interfere with the order passed by the Court below.

In the result, this Criminal Original Petition is dismissed, and the Court below is directed to conclude the proceedings within a period of two months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KP

To

1.The District Munsif Cum Judicial Magistrate,
Valparai.

2.-Do- Thro' The Chief Judicial Magistrate,
Coimbatore.

+lcc to Mr.A.Sasidharan, Advocate, S.R.No.786

Crl.O.P. No.27072 of 2018

SV (CO)

rrs 29/01/2019



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