

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 24.01.2019

CORAM:

THE HON'BLE MR.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.29503 of 2018
and
Crl.M.P.No.284 of 2019

M.Natarajan ... Petitioner

Vs.

K.Jayanthi ... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the order dated 04.12.2018 in C.M.P.No.3706 of 2018 in C.C.No.73 of 2018 passed by the Judicial Magistrate, Sulur at Coimbatore and allow C.M.P.No.3706 of 2018 in C.C.No.73 of 2018.

For Petitioner : Mr.S.Karthikei Balan

For Respondent : Mr.Kumaresan

ORDER

This petition has been filed challenging the order passed by the Court below dismissing the petition filed under Section 311 Cr.P.C.

2.The petitioner is the complainant, who has filed a complaint against the respondent for an offence under Section 138 of Negotiable Instrument Act. This petitioner filed a petition under Section 311 Cr.P.C seeking to recall the P.W.1 for further examination. This petition was dismissed by the Court below by an order dated 04.12.2018.

3. Heard Mr.S.Karthikei Balan, learned counsel for the petitioner and Mr.Kumaresan, learned counsel for the respondent.

4. It is seen that this complaint is only of the year 2018 and the petitioner as the complainant wants to establish his case by recalling P.W.1 in order to put further questions. The respondent will always have opportunity to cross-examine P.W.1 and therefore, no prejudice will be caused to the respondent if an opportunity is given to the petitioner to recall P.W.1.

5. The order passed by the Court below in C.M.P.No.3706 of 2018 in C.C.No.73 of 2018 on the file of the Judicial Magistrate, Sulur at Coimbatore is hereby set aside. The Court below shall fix a date for the appearance of P.W.1, who shall be examined by the learned counsel for petitioner and cross examined by the respondent on the same day. If for any reason, the learned counsel for the petitioner fails to examine P.W.1 on the date of appearance, the petitioner shall forfeit his right to recall P.W.1.

6. Accordingly, this Criminal Original Petition is allowed and the Court below is directed to complete the proceedings within a period of two months from the date of receipt of a copy of this order. Consequently, the connected CrI.M.P.No.284 of 2019 is closed.

Sd/-
Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

vsg1/ia

To:

The Judicial Magistrate, Sulur, Coimbatore.

+1cc to Mr.S.Kumaresan, Advocate SR.No.5752

+1cc to Mr.S.Karthikeyan, Advocate SR.No.5816

CrI.O.P.No.29503 of 2018

GMV (07/02/2019)

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