



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 04.06.2019
CORAM
THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

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Cr1.O.P. (MD)No.6473 of 2019
and
Cr1.M.P. (MD)Nos.4317 and 4318 of 2019

B.R.K.Adityan ... Petitioner/Petitioner /Accused
-Vs-
A.Muthuramalingam ... Respondent/Respondent /Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., praying, to call for the records relating to the proceedings in Cr.M.P.No.3307 of 2019 in S.T.C.No.60 of 2016 on the file of the learned Judicial Magistrate No.IV, Tirunelveli and quash the same and allow this Criminal Original Petition.

For Petitioner : Mr.Karthick Subramanian

ORDER

This Criminal Original Petition is filed, challenging the order of dismissing the petition filed by the petitioner under Section 311 Cr.P.C. The petitioner is an accused in S.T.C.No.60 of 2016 on the file of the learned Judicial Magistrate No.IV, Tirunelveli, for the offence under Section 138 of Negotiable Instruments Act.

2.In the instant case, trial has been commenced in the year 2017 and the complainant was examined as P.W.1 as early as on 10.02.2017 and after several adjournments, he was cross-examined by the petitioner / accused on 19.05.2017 and the evidence on the side of the complainant was closed on 28.09.2017. Thereafter, the accused was examined under Section 313 Cr.P.C. on 17.11.2017 and the matter has been adjourned on various dates for the examination of the petitioner's side witness. Earlier, the petitioner filed a memo, stating that he has no witnesses. Then the matter was posted for argument. Thereafter, the petitioner filed an application under Section 315 Cr.P.C., and the application was allowed on 21.12.2018 and the petitioner / accused was examined as D.W.1 on 24.01.2019, after that the petitioner did not appear for cross-examination and adjournments, the accused was cross-examined by the complainant on 11.02.2019.



3. In the mean time, the petitioner also filed a petition to quash the aforesaid criminal proceedings before this Court in CrI.O.P.(MD)No.9078 of 2018 and this Court, vide order dated 10.10.2018, dismissed the quash petition filed by the petitioner. Thereafter, the present application has been filed by the petitioner under Section 311 Cr.P.C., to cross-examine P.W.1 on the ground that this Court has dismissed CrI.O.P.(MD)No.9078 of 2018, following the earlier judgment of this Court, which has been subsequently, overruled by the Hon'ble Supreme Court, on this aspect the petitioner wants to cross-examine P.W.1.

4. The trial Court has dismissed the application, holding that already the matter is pending from the year 2016 and sufficient opportunity has been given to the petitioner to cross-examine P.W.1 and the cross-examination of P.W.1 was already over on 28.09.2017 and the present application is filed only to drag on the proceedings.

5. I have heard the learned counsel for the petitioner and also carefully considered the entire materials available on record.

6. The evidence on the side of the complainant has been closed as early as on 28.09.2017 and the petitioner has also examined on 11.02.2019. Now, the present application has been filed to reopen the case for the purpose of cross-examine P.W.1 regarding a judgment rendered by the Hon'ble Supreme Court. A perusal of the records shows that the petition is filed by the petitioner only to drag on the proceedings and it is an abuse of process of law. There is no proper explanation on the side of the petitioner to cross-examine P.W.1.

7. Considering all those circumstances, the trial Court has rightly dismissed the application filed by the petitioner and I find no illegality or irregularity in the order passed by the Court below and there is no merit in this Petition. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar(CS-)

Myr

To:

1. The Judicial Magistrate No.IV,

<https://hcservices.ecourts.gov.in/hcservices/>
Tirunelveli.



2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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