



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.09.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.(MD)No.10071 of 2017

and

CRL.MP(MD)No.6877 of 2017

D.Pushparani

... Petitioner/Petitioner/
Accused

Vs.

R.Sundararajan

... Respondent/Respondent/
Complainant

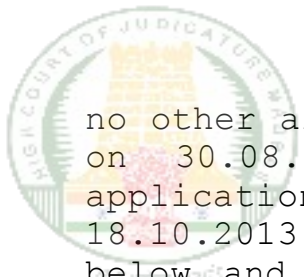
PRAYER:- Petition filed under Section 482 of Criminal Procedure Code, to call for the records of the orders passed by the learned Fast Track (Magisterial Level) Court No.II, Nagercoil in CrI.M.P.No.4480 and 4481 of 2016 in C.C.No.638 of 2012 dated 22.03.2017 and set aside the same .

For Petitioner : Mr.R.Babu Jaganath
For respondent : Mr.B.Tamil Nidhi

ORDER

This petition has been filed challenging the order passed by the Court below dismissing the application filed by the petitioner under Section 311 Cr.P.C to re-open and re-call P.W.1 for cross examination.

2. The respondent has filed a complaint under Section 138 of Negotiable Instruments Act against the petitioner. The complaint was filed in the year 2011. Subsequently, the complaint was transferred to the Fast Track (Magisterial Level) Court No.II, Nagercoil in the year 2013 and a de novo trial was taken up and P.W.1 was examined in chief on 08.03.2013. In spite of several opportunities given to the petitioner, P.W.1 was not cross examined. Therefore, the evidence of P.W.1 was closed. The petitioner filed an application under Section 311 of Cr.P.C to re-call P.W.1 on 21.06.2013 and the same was allowed on 29.07.2013. However, the petitioner failed to cross-examine P.W.1. Left with



no other alternative, the Court below closed the evidence of P.W.1 on 30.08.2013. Thereafter, the petitioner again filed an application under Section 311 Cr.P.C to re-call P.W.1 on 18.10.2013. The petitioner failed to appear before the Court below and therefore non-bailable warrant was issued against the petitioner and it was re-called only in the year 2015. The evidence of P.W.1 was again closed and the case was at the stage of final arguments and the complainant had submitted the final arguments on 19.12.2016.

3. Thereafter, the petitioner changed the counsel and filed one more application under Section 311 of Cr.P.C to re-call P.W.1. This petition was dismissed by the Court below by recording the earlier proceedings and the Court below came to the conclusion that the petition has been filed only to drag on the proceedings.

4. Heard the learned counsel for the petitioner and the learned counsel on behalf of the respondent.

5. This Court does not find any illegality or infirmity in the order passed by the Court below. Atleast on three occasions, 311 applications were filed by the petitioner to re-call P.W.1 for cross-examination and the same was allowed. In spite of the same, the petitioner did not cross-examine P.W.1. Therefore, the Court below has rightly dismissed the present application, which was again filed to re-call P.W.1.

6. In the result, this Criminal Original Petition is dismissed and the Court below is directed to complete the proceedings in C.C.No.638 of 2012 within a period of one month from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

dss

To

1. The Fast Track (Magisterial Level) Court, No.II,
Nagercoil.



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

+1 CC to M/s.B. TAMIL NIDHI, Advocate (SR-85368[F] dated
05/09/2019)

+1 CC to M/s.R.BABU JAGANATH, Advocate (SR-85766[F] dated
06/09/2019)

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