



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 01.11.2019
CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P. (MD) .No.12240 of 2017
and
CRL.M.P. (MD) .No.8469 of 2017

P.Alimbai : Petitioner / Petitioner
Vs.

A.Jalendran : Respondent / Respondent

PRAYER: Petition is filed under Section 482 of Criminal Procedure Code to set aside the judgment passed by the Judicial Magistrate and Fast Track Court as Magisterial Level, Thanjavur in C.M.P.No.2023 of 2016 in C.C.No.65 of 2014, dated 04.07.2016.

For Petitioner : Mr.R.Rajaraman

ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below dismissing the application filed under Section 311 of the Code of Criminal Procedure.

2. The respondent had filed a complaint against the petitioner for the offence under Section 138 of the Negotiable Instruments Act. The complaint was taken cognizance on 01.04.2014 and the summon was issued to the petitioner. The respondent was examined as P.W.1 on 22.07.2014 and since the petitioner did not cross-examine, the evidence on the side of the complainant was closed on 10.09.2014. Thereafter, the petitioner was also questioned under Section 313 (1) (b) of the Code of Criminal Procedure on 15.09.2014.

3. The petitioner filed an application under Section 311 of the Code of Criminal Procedure on 01.10.2014 in C.M.P.No.4971 of 2016. This petition was allowed by an order dated 28.10.2014. Thereafter, P.W.1 was re-called and he was cross-examined from the year 2015 and it went on till 2016 and finally, it was closed on 02.04.2016. Thereafter, the arguments on the side of the complainant was also heard on 11.04.2016 and the case was posted for arguments on the side of the petitioner. At this stage, the present application came to be filed seeking for reopening to recall P.W.1.



4. The learned counsel appearing for the petitioner submitted that one last chance can be given to the petitioner to reopen and recall the respondent, since certain crucial questions will have to be put to him in the cross-examination.

5. The Court below has taken into consideration the entire facts of the case and has come to the conclusion that the petitioner is only attempting to drag on the proceedings and already one chance was given in the year 2014 for recalling P.W.1 for cross-examination. The cross-examination itself went on till 2016 and thereafter, it was closed on 02.04.2016. The Court below dismissed the petition by assigning sufficient reasons.

6. This petition was filed before this Court in the year 2017 and this Court did not even admit this case or order notice to the respondent.

7. This Court does not find any illegality or infirmity in the order passed by the Court below and the Court below was perfectly right in dismissing the application filed by the petitioner under Section 311 of the Code of Criminal Procedure. The only intention of the petitioner is to drag on the proceedings and the Court below has rightly dismissed the petition.

8. In the result, the Criminal Original Petition is dismissed and the Court below is directed to complete the proceedings in C.C.No.65 of 2014, within a period of two months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar (CS)

Tsg

To

The Judicial Magistrate
and Fast Track Court as Magisterial Level,
Thanjavur.

+1 CC to Mr.R.RAJARAMAN, Advocate (SR-95790[F] dated 04/11/2019)

Order made in

CRL.O.P. (MD) .No.12240 of 2017

Dated:01.11.2019