

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:06.08.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.2162 of 2020
and Crl.M.P.No.1329 of 2020

T.Varatharaj

...Petitioner

-Vs-

Lalithkumar

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to set aside the order dated 16.12.2019 made in Crl.RC.No.50 of 2019 on the file of the Principal Session Court confirming the order dated 13.09.2019 made in Crl.M.P.No.6011 of 2019 in S.T.C.No.622 of 2017 on the file of the Judicial Magistrate, Fast Track Court-II, Erode.

For Petitioner : No Appearance

For Respondent : No Appearance

ORDER

This petition has been filed challenging the order passed in Crl.RC.No.50 of 2019 dated 16.12.2019 on the file of the Principal Session Court, thereby confirming the order passed in Crl.M.P.No.6011 of 2019 in S.T.C.No.622 of 2017 dated 13.09.2019 on the file of the Judicial Magistrate, Fast Track Court-II, Erode, thereby dismissing the petition filed under Section 311 of Cr.P.C to recall P.W.1 for cross examination.

2.It is averred that the petitioner is the accused in the complaint lodged by the respondent herein for the offence punishable under Section 138 of Negotiable Instruments Act in the year 2017. The trial has commenced on 17.05.2018 and on that day, the petitioner did not cross examine P.W.1, however, on examining the P.W.1, the prosecution evidence was closed and thereafter, after proceeding under Section 313 of Cr.P.C. the matter was posted for defence side evidence. After closing the defence side evidence, the matter was posted for arguments. At that juncture, the petitioner has filed a petition in Crl.M.P.No.7690 of 2018 to recall the P.W.1 for cross examination and the same was allowed on 24.10.2018. Even then

also, the petitioner did not come forward to cross examine the P.W.1 and finally he completed the cross examination on 11.06.2019 and 23.07.2019. Therefore, the petitioner cross examined P.W.1 completely and thereafter, the matter was posted for argument. At that juncture, again the petitioner filed the present petition for cross examination in order to filling the lacunae. Therefore, the trial Court rightly dismissed the petition filed by the petitioner under Section 311 of Cr.P.C. The lower appellate Court also rightly appreciated the reasons stated by the trial Court and confirmed the order passed by the trial Court. In view of the above facts and circumstances, this Court finds no irregularity or infirmity in the order passed by the trial Court. The present petition is nothing but the second revision and as such this Court is not inclined to entertain this petition.

3. In view of the above facts and circumstances, this Criminal Original Petition is dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

gbi

To

1. The Judicial Magistrate,
Fast Track Court-II, Erode.

2. The Principal Sessions Judge,
Erode.

3. The Public Prosecutor,
High Court, Madras.

VSNI (CO)
RMP (05/10/2020)

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