

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.1343 of 2021
and Crl.MP.No.823 of 2021

N.Rangan

... Petitioner/Accused

Vs.

V.M.Vasidevan

... Respondent/Complainant

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the order dated 09.11.2020 in CMP.No.1985 of 2020 in CC.No.64 of 2016 on the file of the learned Judicial Magistrate-VI, Coimbatore.

For Petitioner : Mr.R.Rajarajan

ORDER

This petition has been filed challenging the order passed by the Court below dismissing the application filed by the petitioner under Section 311 of Cr.P.C. to recall PW1 for further cross-examination.

2. The respondent filed a complaint against the petitioner under Section 138 of Negotiable Instruments Act. The respondent was examined as PW1 and he was also cross-examined by the petitioner on 21.02.2020. The Court below has recorded that a cross examination running to over 14 pages has been done by the petitioner. Thereafter, PW2 was also examined-in-chief and cross-examined. The questioning was also over under Section 313 (i)(b) of Cr.P.C. on 13.03.2020. The case was at the stage of defense evidence. At this stage, the petitioner has filed an application under Section 311 of Cr.P.C. to recall PW1 for cross-examination. This application was dismissed by the Court below by an order dated 09.11.2020. Aggrieved by the same, the present petition has been filed before this Court.

3. Heard Mr.R.Rajarajan, learned counsel for the petitioner.

4. The only ground on which the application has been filed before the Court below seeking for recalling the PW1 for further cross-examination is that there is a change of counsel on the

side of the petitioner. This Court has repeatedly held that change of counsel can never be a ground for recalling a witness. That apart, in the present case, a detailed cross-examination has been done by the earlier counsel appearing on behalf of the petitioner. This Court does not find any illegality or infirmity in the order passed by the Court below and there are no grounds to interfere with the same.

5. In the result, this Criminal Original Petition is dismissed and there shall a direction to the Court below to complete proceedings in CC.No.64 of 2016 within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is also closed.

s/d-

Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

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To

1.The Judicial Magistrate-VI, Coimbatore.

2.Do Thro The Chief Judicial Magistrate
Coimbatore

+1 Cc to Mr.R.Rajarajan, Advocate sr 50051.

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SV(CO)
SP(01/03/2021)

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