

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2021

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl. OP No.1971 of 2021

Subramani

... Petitioner

vs.

M/s. Dhurva Lakshmi Finance
Rep. By its Partner Kandasamy
S/o. Perumal, Door No.4/83,
West Arunthathiyar Street,
Vagurampatti, Vasanthapuram Post,
Namakkal.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed in Crl. M.P.No.3824 of 2020 dated 01.12.2020 on the file of the Judicial Magistrate No.1 at Namakkal.

For Petitioner : Mr. R.Suryakumaran

For Respondent : Mr. K.R.Krishnan

ORDER

This Petition has been filed challenging the order passed by the Court below allowing the application filed by the respondent under Section 311 of the Code of Criminal Procedure to recall P.W.1 for the purpose of marking seven additional documents.

2. The respondent has filed a complaint against the petitioner for an offence under Section 138 of the Negotiable Instrument Act. The partner of the respondent firm examined himself as P.W.1 and nearly 23 documents were marked as P.W.1 to P.W.23. The case was at the stage of defence evidence. At this stage an application came to be filed by the respondent under Section 311 of the Code of Criminal Procedure to recall P.W.1 and to mark seven additional documents. The Court below had allowed this application. Aggrieved by the same, the present petition has been filed before this Court.

3. Heard Mr.R.Suryakumaran, learned counsel appearing for the petitioner and Mr.K.R.Krishnan, learned counsel appearing for the respondent.

4. In the considered view of this Court, there is no ground to interfere with the order passed by the Court below. The Court below has merely permitted P.W.1 to recall and mark certain additional documents in order to prove their case. The petitioner will always get an opportunity to cross-examine the witness on the documents that are sought to be marked. The grievance of the petitioner seems to be that certain items in the additional documents have already been marked as an Exhibit and it cannot be again allowed to be marked by recalling P.W.1.

5. In view of the above, the order passed by the Court below is hereby sustained. The Court below shall recall P.W.1 and permit the marking of additional documents subject to their relevancy, proof and admissibility. The petitioner shall be given opportunity to cross-examine P.W.1 on the documents that are sought to be marked as additional documents. If any of the additional documents have already been marked, the Court below shall not permit the same document to be marked again.

6. This Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings in CC No.403 of 2018 within a period of three months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

jv

To

1. The Judicial Magistrate No.1
Namakkal.

+1cc to Mr. K.R.Krishnan, Advocate, S.R.No. 14091

Cr1. OP No.1971 of 2021

GPL (CO)
GN (24/03/2021)