

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.03.2021

CORAM

THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.5242 of 2021

K.Shanmugam

.. Petitioner/Accused

Vs.

S.Sathyakala

.. Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set aside the order dated 01.03.2021 passed in Crl.MP.no.874 of 2021 in STC No.117 of 2019 passed by the learned Judicial Magistrate Court (FTC) at Tiruchengode.

For Petitioner : Mr.R.Poovalingam

ORDER

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

2. The respondent has filed a complaint against the petitioner for offence under Section 138 of the Negotiable Instruments Act. The respondent examined himself as PW1 and he was also cross examined in detail by the petitioner on 15.10.2019. Thereafter, the petitioner was questioned under Section 313 of Cr.P.C. and the matter was posted for defence side evidence. The petitioner examined DW1 to DW4 and the evidence on the side of the defence was closed on 16.02.2021. Thereafter, the matter was posted for final arguments and the respondent has also completed the arguments. The matter was adjourned for the arguments of the petitioner. At this stage, the petitioner filed an application under Section 311 of Cr.P.C. to recall PW1 for further cross examination on the ground that the petitioner wants to put some questions to PW1 with regard Ex.P6 which was marked through DW4. The Court below dismissed the application and aggrieved by the same, the present petition has been filed before this Court.

3. Heard Mr.K.Balaganesh, learned counsel for the petitioner.

4. This Court has carefully gone through the order passed by the Court below. This Court does not find any illegality or infirmity in the order passed by the Court below. The proceedings under Section 138 of the Negotiable Instruments Act is summary in nature. The petitioner cannot conduct 138 (NI Act) case like a sessions trial and keep examining witness after witness and once again recall PW1 for further cross examination. The Court below was perfectly right in holding that there are no valid reasons to recall PW1 for further cross examination. This Court does not find any ground to interfere with the order passed by the Court below.

5. In view of the above, the order passed by the Court below is sustained and this Criminal Original Petition is dismissed. The Court below is directed to complete the proceedings in STC No.117 of 2019 within a period of two months from the date of receipt of copy of this order.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

RLI

To

The Judicial Magistrate Court (FTC),
Tiruchengode.

सत्यमेव जयते

Cr1.O.P.No.5242 of 2021

GSM (CO)
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