



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.1733 of 2022

Mrs.Parvady

...Petitioner

Versus

Pankaj Kothari

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the learned Judicial Magistrate No.II, Pondicherry to dispose the case in C.C.No.420 of 2011, within time fixed by this Court.

For Petitioner : Mr.D.Senthilkumar

O R D E R

This Criminal Original Petition is filed to direct the learned Judicial Magistrate No.II, Pondicherry to dispose the case in C.C.No.420 of 2011, within time fixed by this Court.

2.The contention of the petitioner is that the petitioner is the complainant, who had filed a complaint under Section 138 of Negotiable Instruments Act against the respondent/accused in C.C.No.420 of 2011 is kept pending without any progress on the file of the Judicial Magistrate Court No.II, Pondicherry. The petitioner had examined herself as PW1 on 28.08.2015 and marked Ex.P1 to Ex.P8. Further the chief examination continuation was completed on 27.11.2015. Thereafter PW1 was cross examined on 05.10.2016. Subsequently, the petitioner's side evidence closed and on 07.02.2017, the accused was questioned under Section 313 Cr.P.C. Despite of several chances were given for the respondent to let in defence witness, the respondent failed to do so. The case was periodically adjourned for examination of defence side witness, finally on 30.08.2018, the trial Court finds that the respondent is dragging on the case, without examining any witnesses and closed the defence side witness.

3.He further submitted that on 06.10.2018, the petitioner's counsel has completed his arguments in the main C.C. Itself and the respondent counsel submitted that he is going to file a reopen petition to examine the defence witness. On 05.12.2018, the trial Court had allowed the reopen petition. On 12.12.2018,



DW1 and DW2 examined and Ex.D2 marked. Thereafter, it was posted for cross examination of DW1. DW1 is none other than the respondent/accused. For some reason or other, he has not appeared before the lower Court, due to which the case has been kept pending without any progress. The trial Court had given several opportunity for appearance of DW1, but he failed to appear. In view of the same, the trial Court not entertained the petition filed by the respondent under Section 317 Cr.P.C. and also directed the respondent to appear before the trial Court. The case is kept pending from the year 2011. Hence the present petition is filed.

4.Considering the submission and on perusal of the materials, this Court directs the trial Court to complete the process of cross examination of DW1 and DW2, within a period of three weeks from the date of commencement of normal functioning of the Courts. The trial Court is also directed to dispose of the case, within a period of two weeks there from, since the case is of the year 2011. If the respondent/accused is adopting any dilatory tactics, it is for the trial Court to take coercive action against him.

5.With the above directions, this Criminal Original Petition stands disposed of.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

The Judicial Magistrate No.II,
Pondicherry.

+2cc to M/s.D.Senthilkumar, Advocate, S.R.No.5910

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PL(CO)
RGA(18/02/2022)