



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2022

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.3762 of 2022

K.Karthikeyan

... Petitioner / Petitioner

Vs.

Arjunan

... Respondent / Respondent

PRAYER: This Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the order dated 27.12.2021 made in C.M.P.No.2224 of 2021 in C.C.No.99 of 2019 by the learned Judicial Magistrate Fast Track Court (Magisterial Level), Kallakurichi and to quash the same.

For Petitioner : Mr.T.Dhanasekaran

For Respondent : No appearance

O R D E R

The Criminal Original Petition has been filed seeking to call for the records relating to the order dated 27.12.2021 made in Crl.M.P.No.2224 of 2021 in C.C.No.99 of 2019 by the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Kallakurichi.

2.The brief facts of the case is that the petitioner is an accused, facing trial in C.C.No.99 of 2019 on the file of the Judicial Magistrate, Fast Track Court, (Magisterial Level), Kallakurichi for the offence under Section 138 of Negotiable Instruments Act. He had filed a petition in C.M.P.No.2224 of 2021, under Section 311 Cr.P.C., seeking to recall P.W.1 and R.Ws respondent side evidence for the purpose of further cross examination. The Trial Court on finding that the petition has been filed at the stage of arguments and that it has been filed intentionally to prolong the proceedings, had dismissed the same. Against which, the present petition has been filed.



3.The learned counsel for the petitioner would submit that the petitioner was unable to properly cross examine the witnesses for want of some material documents and therefore he had filed a petition seeking to recall P.W.1 and R.Ws for the purpose of further cross examination. Whereas, the Trial Court without considering the same, had dismissed the petition.

4.Heard the learned counsels on either side and perused the materials available on record.

5.The petitioner is an accused in C.C.No.99 of 2019. As per the records, it seems that after first questioning, the case was posted for trial on 19.10.2019. Then on 21.01.2020, the complainant was examined as P.W.1 and the case was posted for cross examination of P.W.1 on 28.01.2020. Since, the petitioner did not cross examine P.W.1, the Trial Court on 04.12.2020 had granted further time on condition of payment of cost of Rs.200/- and adjourned the matter to 10.02.2020. On that day, the petitioner/accused was absent and therefore, Bailable Warrant was issued by the Trial Court against the accused. Then on 03.09.2021 the accused surrendered before the Court and hence, the said Bailable Warrant was recalled and then got further adjournment on 20.10.2021 P.W.1 was cross examined by the accused's counsel. Once again the accused was absent himself on 08.11.2021, 12.11.2021 and 18.11.2021 for second questioning and that the accused was present only on 24.11.2020 and after completion of second questioning under Section 313 Cr.P.C., the Court granted time for defence evidence on 31.12.2021 and again the case was posted on 08.12.2021. Thereafter on 17.12.2021, the Court heard the arguments of the complainant and when the case was posted for further arguments on 20.12.2021, the accused filed an application to recall P.W.1 and R.Ws for cross examination.

6.The trial Court on finding that P.W.1 was already cross examined in length and no witness was examined on the side of the accused and that no valid reason was stated in the petition to recall P.W.1, had dismissed application holding that it was filed only for the purpose of drag on the trial proceedings. Even before this Court also, the petitioner is unable to say for what reasons, P.W.1 wants to be recalled for cross examination. Therefore, this Court does not find any infirmity in the order passed by the Trial Court. Therefore, the criminal Original Petition is liable to be dismissed.



7. Accordingly, this Criminal Original petition stands dismissed.

WEB COPY

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

nti/ssi

To

1. The Judicial Magistrate,
Fast Track Judge,
The Judicial Magistrate Fast Track Court
(Magisterial Level),
Kallakurichi.
2. -do through- The chief Judicial Magistrate,
Kallakurichi.

Crl.O.P.No.3762 of 2022

BR[co]
NSK 14/03/2022