



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2022

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.7297 of 2022
and Crl.M.P.No.4173 of 2022

G.Sathishkumar

... Petitioner

Vs.

P.Chandran

... Respondent

PRAYER: This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to set aside the order dated 14.03.2022 made in Crl.M.P.No.2838 of 2020 in S.T.C.No.520 of 2019 on the file of the Judicial Magistrate/FTC No.I, Erode.

For Petitioner : Mr.M.Guruprasad

O R D E R

The Criminal Original Petition has been filed seeking to set aside the order dated 14.03.2022 made in Crl.M.P.No.2838 of 2020 in S.T.C.No.520 of 2019 on the file of the Judicial Magistrate/FTC No.I, Erode, dismissing the petition filed under Section 311 Cr.P.C to recall PW1.

2. Learned counsel appearing for the petitioner would submit that the petitioner is an accused facing trial in S.T.C.No. 520 of 2019 for offences punishable under Section 138 of NI Act. The petitioner due to improper advise, has not properly cross examined PW1 on the earlier occasion. Thereby, the petitioner had filed an application in Crl.M.P.No.2838 of 2020 seeking to recall PW1. Whereas, the learned Judge without taking into consideration the statutory presumptions against the accused, had dismissed the application. He would further submit that if the petitioner is not permitted to recall and cross examine PW1, it will cause great hardship to the petitioner. Thereby, he would seek to set aside the order passed in Crl.M.P.No.2838 of 2020 in S.T.C.No.520 of 2019 on the file of the Judicial Magistrate/FTC No.I, Erode.

3. Heard the learned counsel and perused the materials available on record.



4. From the order, it is seen that PW1 had been examined in chief on 23.10.2019 and Exs.P1 to P8 had been marked. Further, the petitioner had cross examined PW1 on 04.02.2020. Whereas, it seems that the petition has been filed by the petitioner stating that PW1 was not at all cross examined. The trial Judge finding that sufficient opportunity had been given to the petitioner to cross examine the witness, had dismissed the application.

5. In view of the above, this Court does not find any infirmity in the order passed by the lower Court. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

rgi/ham

To

The Judicial Magistrate/
FTC No.1, Erode.

+1cc to Mr..M.Guruprasad, Advocate SR.No.22847

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GPL(CO)
GMY(10/05/2022)