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Crl.O.P.No.25986 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2022

CORAM:

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.O.P.No.25986 of 2022

and

Crl.M.P.No.16057 of 2022

R.Sathiya

... Petitioner

Vs.

K.K.Saroja

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records pertaining to the order dated 12.10.2022 in Crl.M.P.No.7424 of 2022 in C.C.No.24 of 2019, passed by the Court of the Judicial Magistrate, Fast Track Court (Magisterial Level), Alandur, revise and set-aside the same.

For Petitioner : Mr.K.Shyam Sunder

ORDER

This Criminal Original Petition has been filed to set aside the order passed by the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Alandur in Crl.M.P.No.7424 of 2022 in C.C.No.24 of 2019 dated



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2. The learned counsel for the petitioner submitted that the respondent/complainant filed a complaint against the petitioner for the offence punishable under Section 138 of N.I. Act before the Fast Track Court, Alandur, Chennai and the same has been taken on file in C.C.No.24 of 2019. In which, Pw1 was partly cross examined by the petitioner and not completed the cross examination and in order to complete the cross examination, with regard to payment of Rs.5,00,000/- from the complainant account, the petitioner filed the petition under Section 311 of Cr.P.C in Crl.M.P.No.7424 of 2022 for recalling PW1 for further cross examination, which was dismissed by the Trial court on the ground that the petitioner has cross examined PW1 in full and there is no need for further cross examination. Hence, the present petition has been filed.

3. I have considered the matter in the light of the submission made by the learned counsel for the petitioner and perused the materials available on record.

4. On perusal of records, reveals that the petitioner is an accused and the respondent is the complainant in C.C.No.24 of 2019 on the file of learned



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Judicial Magistrate, Fast Track Court (Magisterial Level), Alandur. The

respondent/ complainant filed the complaint against the petitioner with regard to payment of Rs.5 Lakhs and in pursuance of the repayment, the petitioner gave cheque, which was dishonoured. Hence, after sending the legal notice, the complainant filed the complaint for the offence punishable under Section 138 of N.I.Act. In this case, PW1 was examined and thereafter, sufficient opportunity was given to the petitioner/accused to cross examine PW1 on several dates. The dates are mentioned in the order of the Trial Court and finally the PW1 has been cross examined in full on 24.08.2021 and thereafter, the Trial Court posted the case for defence evidence on 18.07.2022. The learned counsel for the petitioner made an endorsement that “no defence witnesses” on 23.08.2022. Thereafter, the Trial Court posted the case for argument on 05.09.2022 and periodically, it was adjourned for arguments. At this stage, the petitioner has filed this petition to recall PW1 for the purpose of further cross examination.

5. From the records, it is seen that the petitioner has cross examined the PW1 fully on 24.08.2021. On perusal of the deposition, there is no such endorsement that the cross examination was stopped, for continuation of cross examination. Therefore, the contention of the learned counsel for the



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petitioner, that the cross examination of PW1 was not completed, has no

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V.SIVAGNANAM, J.

shk

merit. Since the petitioner has already cross examined PW1 fully, there should be sufficient reason for recalling witnesses for further cross examination and it is absent in this case. The Trial Court rightly rejected the petition. Hence, I do not find any reason to interfere with the order passed by the Trial Court and I find no merit in this petition.

6. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

28.10.2022

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
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