



**Crl.O.P No.27442 of 2022**

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2022

**CORAM :**

**THE HONOURABLE Ms. JUSTICE R.N.MANJULA**

**Crl.O.P No.27442 of 2022**

**and**

**Crl.M.P No.16881 of 2022**

D.Vadivudaiammal

... Petitioner

Vs

U.Aravindh

... Respondent

**PRAYER:** Criminal Original Petition filed under Section 482 of Cr.P.C., praying to set aside the order dated 16.09.2022 made in Crl.M.P No.13301/2022 in C.C No.5535 of 2018 by the FTC III, Metropolitan Magistrate Court, Saidapet, Chennai-15.

For Petitioner : Mr.P.Balamurugan

### **ORDER**

The Criminal Original Petition has been preferred, to set aside the order of the Metropolitan Magistrate, FTC-III, Saidapet, dated 16.09.2022 made in Crl.M.P No.13301/2022 in C.C No.5535 of 2018.



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2. The petitioner is the accused in the complaint preferred by the respondent for the offence under Section 138 of Negotiable Instruments Act under a private complaint. During the course of the trial, the petitioner has filed a petition to recall PW1 for further cross examination and the same was dismissed. Aggrieved over that, the petitioner had filed this petition.

3. Heard the learned counsel for the petitioner.

4. The learned counsel for the petitioner submitted that despite PW1 was cross examined, further cross examination of PW1 is needed in the interest of justice; but the learned trial Judge without considering the same, has chosen to dismiss the same and it has to be set aside.

5. On perusal of the order dated 16.09.2022 passed in Crl.M.P No.13301/2022 in C.C No.5535 of 2018, the learned Metropolitan Magistrate, FTC-III, Saidapet has observed that the petitioner had filed the petition in such a way that he had not cross examined PW1 so far; but in reality, he had already cross examined PW1 and he had come out with an application to further cross examine PW1 without any valid reason.



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On perusal of the petition filed by the petitioner for seeking to recall PW1, no reason has been stated to show why the recalling of PW1 is essential, when he had already been cross examined on two occasions.

6. The records would show that after the chief examination was completed, the petitioner had cross examined PW1 on 29.01.2020 and thereafter on 17.03.2020. Since PW1 has already been cross examined exhaustively, I do not find any reason to interfere with the order passed by the learned Metropolitan Magistrate, FTC-III, Saidapet, Chennai and hence the petition is liable to be dismissed.

7. In the result, this Criminal Original Petition is dismissed and the order 16.09.2022 made in Crl.M.P No.13301/2022 in C.C No.5535 of 2018 by the Metropolitan Magistrate Court, FTC-III, Saidapet, Chennai-15, is confirmed. Consequently, connected Miscellaneous Petition is closed.

10.11.2022

Index : Yes/ No  
Speaking Order: Yes/No  
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**R.MANJULA, J**

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To

The Metropolitan Magistrate  
FTC-III, Chennai.

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**10.11.2022**