



CrI.O.P.No.1105 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2023 CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

CrI.O.P.No.1105 of 2023

and

CrI.M.P.No.598 of 2023

Nandhakumar

...Petitioner

Vs.

B.Rajeswari
represented by her Power of Attorney Holder
B.Vijayakumar.

...Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 09.12.2022 made in CrI.M.P.No.7942 of 2022 in S.T.C.No.791 of 2017 on the file of the Judicial Magistrate/FTC No.II at Erode.

For Petitioner : Mr.M.Guruprasad

ORDER

This Criminal Original Petition has been filed to set aside the order dated 09.12.2022 made in CrI.M.P.No.7942 of 2022 in S.T.C.No.791 of 2017 on the file of the Judicial Magistrate/FTC No.II at Erode.



CrI.O.P.No.1105 of 2023

2. CrI.M.P.No.7942 of 2022 was filed to recall PW1 for the purpose of further cross examination. The learned counsel for the petitioner submitted that, PW1 during course of cross examination stated that, there was a business transaction between the petitioner and the respondent from the year 2015 onwards and filed records in this regard. Further, some important questions were omitted during the cross examination of PW1. Therefore, this petition was filed for recalling the PW1 under Section 311 CrPC. The learned Judicial Magistrate without considering the merits in the claim of the petitioner, dismissed the petition.

3. Challenging the dismissal order, this petition is filed.

4. Considered the submission of the learned counsel for the petitioner and perused the records.

5. It is seen from the orders of learned Judicial Magistrate, Fast Track Court No.II, Erode that PW1 was cross examined on three occasions during the last five years. Relying on the Judgment of Hon'ble Supreme Court, in the case of ***“Swapan Kumar Chapperjee Vs. Central Bureau of Investigation”*** that the



Crl.O.P.No.1105 of 2023

trial Court should not encourage the filing of successive applications of recall of witness under Section 311 of CrPC and the object of the Act is that the case should be disposed within a period of six months from the date of filing of the case, the learned Magistrate dismissed the petition.

6. This Court, going through the reasons given by the learned Trial Magistrate and also the fact that PW1 was already cross examined three times within a period of five years, finds no reason to interfere with the order of the learned Magistrate. Therefore, the order dated 09.12.2022 made in Crl.M.P.No.7942 of 2022 in S.T.C.No.791 of 2017 on the file of the learned Judicial Magistrate, Fast Track Court No.II at Erode is confirmed. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed.

20.01.2023

gd

Index:Yes/No

Speaking Order: Yes/No



Crl.O.P.No.1105 of 2023

G.CHANDRASEKHARAN.J.,

gd

To

The Judicial Magistrate/FTC No.II,
Erode.

Crl.O.P.No.1105 of 2023

20.01.2023