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Crl.O.P.No.5824 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2023

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.5824 of 2023

and

Crl.M.P.No.3641 of 2023

UmaMaheswari

...Petitioner

Vs.

V.Subramani

...Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to set aside the Order passed in Crl.M.P.No.1004 of 2023 in C.C.No.1829 of 2020 on the file of Metropolitan Magistrate, FTC-I, Egmore at Allikulam Complex, Egmore and permit the petitioner to cross examine the respondent in C.C.No.1829 of 2020 and pass such further or other orders as this Court may deem fit.

For Petitioner : Mr.K. Venkateswaran
for Mr.L.Charles Premkumar
For Respondent : No appearance

ORDER

This Criminal Original Petition has been filed to set aside the Order passed in Crl.M.P.No.1004 of 2023 in C.C.No.1829 of 2020 on the file of



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learned Metropolitan Magistrate, FTC-I, Egmore at Allikulam Complex, Egmore and permit the petitioner to cross examine the respondent in C.CNo.1829 of 2020.

2. Learned counsel for the petitioner submitted that, petitioner filed a petition under Section 311 Cr.P.C in Crl.M.P.No.1004 of 2023, for recalling of PW1 for the purpose of putting certain questions that have been omitted to be put before PW1.

3. It is further submitted by the learned counsel for the petitioner that, unless these material questions are asked, petitioner would be prejudiced. There is also certain discrepancies, with regard to the return memo received by PW1. There is also a delay in issuance of notice. These facts have to be clarified with PW1. Without considering the petitioner's claim, petition was dismissed. Therefore, this petition is filed to set aside the Order passed in Crl.M.P.No.1004 of 2023 in C.C.No.1829 of 2020 on the file of learned Metropolitan Magistrate, FTC-I, Egmore at Allikulam Complex, Egmore and permit the petitioner to cross examine the respondent in C.CNo.1829 of 2020.



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

5. It is seen from the Order in Crl.M.P.No.1004 of 2023 passed by the learned Metropolitan Magistrate, FTC-I, Egmore at Allikulam Complex, Egmore that, petitioner has not explained in the petition, as to the omission of questions during the cross examination of PW1. It was also found that PW1 was questioned about the date of return memo and issuance of notice.

6. This Court is also of the view that, the date of return of cheque and issuance of notice can be gathered from the documents filed by the complainant in the form of return memo, notice and acknowledgment card. To clarify these aspects, it is not necessary to recall PW1. The Hon'ble Supreme Court of India and this Court have repeatedly held that, cross examination of witnesses should be completed on the same day of examination in chief. There is no doubt that, repeated summoning of witnesses for the purpose of cross examination amounts to harassment of these witnesses and in a way it amounts to persecution. There is also a possibility of witnesses giving different version due to lapse of time or confusion in the mind of the



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witnesses due to repeated examination.

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7. In this view of the matter, this Court finds that, the Order of the learned Metropolitan Magistrate, FTC-I, Egmore at Allikulam Complex, Egmore in Crl.M.P.No.1004 of 2023 is just and appropriate. There is no reason to interfere with the Order of the learned Magistrate. Therefore, the Order of the learned Metropolitan Magistrate, FTC-I, Egmore at Allikulam Complex, Egmore in Crl.M.P.No.1004 of 2023 is confirmed. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed.

8. The Trial Court is directed to dispose the case, as expeditiously as possible, without being influenced by any of the observations made in this Order.

15.03.2023

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Index: Yes/No

Speaking Order: Yes/No

G.CHANDRASEKHARAN.J.,



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To

The Metropolitan Magistrate,
FTC-I, Egmore at Allikulam Complex,
Egmore.

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