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Crl.O.P No.17394 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.17394 of 2023

V.Gajarajan

Petitioner

vs.

1.M/s.Indian Power Projects Limited,
Rep. by its Director, Mr.T.Mohan,
Suite-D, Ist Floor, Sun Plaza Complex,
19, G N Chetty Road, Chennai – 600 006.

2.T.Mohan

3.M.Anand

Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 18.07.2023 passed in Crl.M.P.No.24233 of 2023 in S.T.C.No.2032 of 2021 on the file of the Fast Track Judge-II, Egmore and reopen the evidence to enable the petitioner to produce further witnesses before Fast Track Judge-II, Egmore.

For Petitioner : Mrs.R.Maheshwari

For Respondents :Mr. P.Selvaraj



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ORDER

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This petition has been filed challenging the order passed by the court below in Crl.M.P.No.24233 of 2023 dated 18.07.2023 dismissing the application filed by the petitioner under section 311 of Cr.P.C to reopen the evidence on the side of the complainant.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents and carefully perused the records available.

3. The petitioner/complainant had filed a complaint against the respondents for offence under section 138 of Negotiable Instruments Act. The petitioner was examined as PW1 and the petitioner was also cross examined on 17.08.2022. Thereafter, an application was filed by the respondents under section 311 of Cr.P.C for further cross examination of PW1 and this application was allowed and accordingly, PW1 was further cross examined.

4. Thereafter, the petitioner filed an application under section 311 of Cr.P.C to reopen the evidence on the side of the complainant on the ground



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that certain answers were elicited in the cross examination of PW1 and hence, it is necessary for the complainant to substantiate his case by examining the bank managers of two banks and one V.M.Reddy. This application was dismissed by the Court below vide order dated 18.07.2023 on the ground that the petitioner did not assign any reason as to why he wants to examine the said three witnesses.

5. A reading of the complaint filed by the petitioner shows that the name of Mr.V.M.Reddy and also two bank managers was specifically mentioned as witnesses. The petitioner wants to substantiate the claim, more particularly based on certain answers that were elicited from the petitioner in the course of cross examination. Hence, the petitioner must be given an opportunity to examine the witnesses. No prejudice will be caused to the respondents, since the respondents will always have the right to cross examine the witnesses.

6. In the light of the above discussion, the order passed by the court below in Crl.M.P.No.24233 of 2023 dated 18.07.2023 is hereby quashed and the court below shall issue summons to the witnesses. The witnesses



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shall be examined in chief and cross examined on the same day of their appearance. The court below shall proceed further to dispose of STC No.2032 of 2021 within a period of three months from the date of receipt of a copy of this Order

7. With the above directions, this Criminal Original Petition is disposed of.

13.09.2023

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Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order



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To

The Public Prosecutor,
Madras High Court,
Chennai.



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N. ANAND VENKATESH, J.
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