



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.18334 of 2023
and Crl.M.P.No.12192 of 2023

M.Yeraga Selvan

... Petitioner

Vs.

C.Nageswaran

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 06.07.2023 passed by the learned Metropolitan Magistrate, FTC-III, Allikulam Road, Egmore, Chennai in Crl.M.P.No.24364 of 2023 in STC No.2094 of 2021.

For Petitioner : Mr.P.Ramesh Kumar
For Respondents : Mr.S.Mohan

ORDER

This petition has been filed challenging the order passed by the Court below dismissing the application filed by the petitioner under Section 311 of Cr.P.C., to recall PW1 for cross-examination.



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2. Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondent.

3. The respondent has filed a complaint against the petitioner for offence under Section 138 of the Negotiable Instruments Act. The respondent was examined as PW1 on 14.10.2022 and the matter was adjourned to 15.12.2022 for cross-examination of PW1. Thereafter, the petitioner cross-examined PW1 and the matter was at the stage of questioning under Section 313 of Cr.P.C.

4. The petitioner filed an application under Section 311 of Cr.P.C., to recall PW1 for further cross-examination. The same was dismissed by the Court below by an order dated 06.07.2023 and aggrieved by the same, the present criminal original petition has been filed before this Court.

5. Taking into consideration the facts and circumstances of the case and in order to afford an opportunity to the petitioner to cross-examine PW1, this Court is inclined to interfere with the order passed by the Court below in CrI.M.P.No.24364 of 2023, dated 06.07.2023 and accordingly, the same is set aside.



6.The Court below is directed to fix a date for appearance of PW1 and on the same day, the petitioner shall complete the further cross-examination. If for any reason, the petitioner fails to cross-examine PW1 on the date of his appearance, the petitioner will loose his right to recall PW1 in future. The Court below is directed to dispose of STC No.2094 of 2021, within a period of three months from the date of receipt of copy of this order.

7.This criminal original petition stands allowed with the above direction. Consequently, connected miscellaneous petition is closed.

20.09.2023

Index : Yes/No
Internet : Yes/No
Speaking/Non-Speaking Order
Neutral Citation : Yes/No
ssr

To

- 1.The Metropolitan Magistrate, FTC-III,
Allikulam Road, Egmore, Chennai
- 2.The Public Prosecutor,
High Court, Madras.



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N.ANAND VENKATESH, J

SSR

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