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**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 11.09.2023**

**CORAM**

**THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH**

**Crl.O.P No.18653 of 2023**

M.Ganapathy  
S/o.Muthiah

.. Petitioner/Petitioner/Accused

.Vs.

United Constructive Solutions  
Rep.by its Managing Partner K.Rajendiran  
Plot No.104, Marvel Country  
Varadharajapuram,Manimangalam Road  
Sriperumbudur Taluk  
Chennai-600 048

...Respondent/Respondent/Complainant

**PRAYER:** Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the docket order dated 10.07.2023 passed in Crl.MP.No.841 of 2023 in STC No.564 of 2018, on the file of learned Judicial Magistrate No.I at Tambaram.

For Petitioner : Mr.K.Subash

For Respondent : Mr.R.Sankara Kutralingam

**ORDER**

This criminal original petition has been filed challenging the order passed by the Court below in Crl.MP.No.841 of 2023, dated 10.7.2023 closing the evidence and posting the case for arguments on 4.8.2023.

2.Heard Mr.K.Subash, learned counsel for the petitioner and Mr.R.Sankara



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3.The respondent filed a complaint against the petitioner for offence u/s.138 of the Negotiable Instruments Act, 1881. The respondent examined himself as PW.1 and he was also cross examined on the side of the petitioner on 29.10.2021. The 313 questioning was also completed on 3.12.2021. Thereafter, the petitioner filed an application u/s.311 Cr.PC, to recall PW.1 for further cross examination. Such applications were filed atleast on two earlier occasions and no orders were passed in those applications and ultimately, an order came to be passed in CrI.MP.No.841 of 2023, recalling PW.1 for further cross examination on the side of the petitioner.

4.When the matter was listed on 10.7.2023 and PW.1 was also present before the Court, the petitioner side was not ready to cross examine PW.1. Therefore, the Court below proceeded to close the evidence and posted the case for arguments. The same has been made a subject matter of challenge in this criminal original petition.

5.The respondent has initiated the complaint in the year 2018 and the case was at the stage of questioning u/s.313 Cr.PC during October 2021. From then on, there has been absolutely no progress in this case. In view of the same, the Court below expected the petitioner to further cross examine PW.1 on the date of his appearance while allowing the application in CrI.MP.No.841 of 2023. Since the petitioner did not cross examine on 10.7.2023, the Court below correctly closed the evidence and posted the matter for final arguments.



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6. It is brought to the notice of this Court that the case stands posted on 5.10.2023. In order to afford one last opportunity to the petitioner, this criminal original petition is disposed of in the following terms:

- a) PW.1 shall be present before the Court on 05.10.2023.
- b) The petitioner shall pay cost of Rs.10,000/- to PW.1 on the date of his appearance on 5.10.2023.
- c) PW.1 shall be cross examined on 5.10.2023 and it shall be completed on the same day.
- d) If the petitioner fails to pay the cost and/or the petitioner fails to cross examine PW.1 on the date of his appearance on 5.10.2023, the petitioner will lose his right to recall PW.1 for further cross examination ; and
- e) The Court below shall dispose of STC.No.564 of 2018, within a period of eight weeks from the date of receipt of copy of the order.

7. In the result, this criminal original petition is disposed of in the above terms.

**11.09.2023**

Index : Yes/No  
Internet : Yes/No  
Speaking Order/Non-Speaking Order  
KP

To

<https://www.mhc.tn.gov.in/judis>



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Judicial Magistrate No.I  
Tambaram.

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**N. ANAND VENKATESH,, J.**  
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