



Crl.O.P.No.27945 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2023

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.27945 of 2023

and

Crl.M.P.No.19388 of 2023

1.V.Vikram

2.R.V.Vikram Agencies

rep.by Sole Proprietor

V.Vikram

.. Petitioners

/versus/

Y.Sekar

.. Respondent

Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records and set aside the order dated 30.06.2023 made in Crl.M.P.No.696 of 2023 in S.T.C.No.668 of 2017 passed by the Judicial Magistrate No.III, Salem.

For Petitioner : Mr.K.Sathish Kumar

ORDER

Complaint filed under Section 138 of Negotiable Instruments Act in the year 2017 and taken cognizance in S.T.C.No.668 of 2017 by the Judicial Magistrate-III, Salem, is at the stage of questioning the accused.



CrI.O.P.No.27945 of 2023

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2. The application filed by the petitioner/accused on 15.02.2021 to recall PW.2 came to be dismissed on 30.06.2023 on the ground that the complainant was examined in chief on 06.09.2018. Accused deferred the cross and the witness was examined in part on 24.01.2019 and completed on 04.03.2019. Thereafter, the bank Manager was summoned and examined as PW.2 on 25.04.2019 on the same day PW.2 was cross examined and after the epidemic closure, the trial resumed and on 17.11.2022 complainant side evidence closed and the matter adjourned to 06.02.2023 for questioning the accused under Section 313 Cr.P.C. The application to recall PW.2 who was examined in chief and cross as early on 25.04.2019 was dismissed by the trial Court taking note of the pendency of the complaint for more than five years and the application filed only to protract the proceedings.

3. The learned counsel appearing for the petitioner submitted that in view of the admission made by the witness PW.2 in his cross examination need to put up some more questions to him and therefore, application to recall PW.2 was filed as early as on 15.02.2021 and same came to be



Crl.O.P.No.27945 of 2023

dismissed on 30.06.2023. Therefore, claims that there was no delay on the part of the petitioner in resorting to Section 311 Cr.P.C., which is essentially required to adequately defend the case of the accused.

4. The above submissions of the petitioner been anxiously considered, but this Court could not find any genuineness in the petitioner's claim to recall bank officials again after completion of chief and cross as early as on 25.04.2019. There is no satisfactory explanation for filing this application nearly after two years of examination of the said witness. Hence this Criminal Original Petition is dismissed. Consequently, the connected Criminal Miscellaneous Petition is also dismissed.

14.12.2023

Netural Citation:yes/no
rpl

To:

The Judicial Magistrate No.III, Salem.



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Crl.O.P.No.27945 of 2023

Dr.G.JAYACHANDRAN, J.

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Crl.O.P.No.27945 of 2023

14.12.2023