



CrI.O.P.No.24956 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

**CrI.O.P No.24956 of 2022**

**and**

**CrI.M.P.No.15591 of 2022**

K.Buvaneswari

...Petitioners

vs.

N.Prabakar,  
The Branch Manager,  
Oriental Bank of Commerce,  
Chengalpattu Branch, Chengalpattu.

...Respondents

**PRAYER:**

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the docker order dated 04.03.2022 in C.M.P.No.1028 of 2022 in C.C.No.236 of 2018 on the file of the learned Judicial Magistrate No.I, Chengalpattu.

For Petitioners : Ms.S.Sridevi  
For Respondent : Mr.J.Arun



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**ORDER**

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This criminal original petition has been filed challenging the order passed by the Court below dismissing the application filed by the petitioner under Section 311 of the Code of Criminal Procedure as infructuous by order dated 04.03.2022.

2. The respondent has filed a complaint against the petitioner under Section 138 of the Negotiable Instruments Act. The case was at the stage of cross-examination of PW1 before the trial Court. Unfortunately, the petitioner was not represented by any counsel before the Court below and it seems that the daughter of the petitioner wanted to appear as power of attorney agent of the petitioner and the same was rejected by the Court below. In view of the same, an application, that was filed by the petitioner under Section 311 of the Code of Criminal Procedure to recall the PW1 for examination, was also closed as infructuous. Aggrieved by the same, the present petition has been filed before this Court.

3. Heard the learned counsel for the petitioner and the respondent and also perused the materials available on record.



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4. The learned counsel for the petitioner submitted that the petitioner was not represented by any counsel and she appeared in person before the Court below and that is the reason why there is some confusion in the application that was filed by the petitioner before the Court below. The above submission made by the learned counsel for the petitioner has some relevance, since even today the petitioner is represented by a counsel nominated by the High Court Legal Service Authority. Hence it is clear that the petitioner is not in a position to effectively defend herself case before the Court below.

5. In view of the above, there shall be a direction to the learned Judicial Magistrate No.I, Chengalpattu, to immediately appoint a legal-aid counsel to represent the petitioner. The counsel nominated for the petitioner shall file an application under Section 311 of the Code of Criminal Procedure to recall and to cross-examine PW1. Thereafter, the Court below shall proceed further and see if any other witness has to be examined on the side of the petitioner. In any event, the Court below shall complete the proceedings in CC.No.236 of 2018 on or before 22.12.2023.



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**N. ANAND VENKATESH, J.**

nsa

6. This criminal original petition is disposed of in the above terms.

Consequently, the connected miscellaneous petition is also closed.

**01.08.2023**

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

To

The Judicial Magistrate No.I,  
Chengalpattu.

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**and Crl.M.P.No.15591 of 2022**