



Crl.OP.Nos.25072 and 25073 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.OP.Nos.25072 and 25073 of 2023

and

Crl.MP.Nos.17386 and 17387 of 2023

Crl.OP.Nos.25072 and 25073 of 2023

N.Kumaravel

... Petitioner

Vs.

K.B.K.Ramakrishnan

K.B.Ramakrishna Chettiyar

... Respondent

Common Prayer: Criminal Original Petitions are filed under Section 482 of Criminal Procedure Code, pleaded to set aside the order dated 31.08.2023 made in Crl.MP.Nos.1824 and 1825 of 2023 respectively in C.C.No.152 of 2018 on the file of the learned Judicial Magistrate Court, Mettupalayam.

For Petitioner : Ms.S.Yogalakshmi
(in both Crl.OPs)

COMMON ORDER

The petitions for to recall P.W.1 dismissed by the trial Court stating the following reasons :



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" Since the petitioner was given with several opportunities to cross examine the PW1, the petitioner took several adjournments and cross examined PW1 twice in part. The PW1 appeared before this Court for PW1 Cross on 27.01.2023, 21.02.2023, 17.05.2023, 19.05.2023, 26.05.2023. The PW1 appeared for the above said five hearings for PW1 Cross, however, the petitioner failed to utilize the opportunities. Now after closing PW1 cross and after examination of accused under Section 313(1) (b) of Cr.P.C filed this petition to recall the P.W.1.

2. Challenging the above order, these petitions are filed. This Court on seeing the reasons given by the trial Court fully convinced that there is no ground to interfere with the order of the trial court.

3. The petitioner herein being the accused in a case taken on file in the year 2018, has not proceeded with the trial even after P.W.1 the complainant been present and on at the court order of recalling him to subject himself for cross examination. Out of five hearings, the petitioner has cross examined him on two days and other three days, the witnesses has gone without being cross examined.



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4. The provision of Section 311 of Cr.P.C cannot be misused to harass the witnesses. This Court finds adequate opportunity been given to the petitioner/accused herein to cross examine the complainant, but the same has not been utilized. There cannot be repeated exercise of right under Section 311 of Cr.P.C with oblige motive. Hence, these Criminal Original Petitions are dismissed. Consequently, the connected miscellaneous petitions are closed.

Vv

02.11.2023

To

1. The learned Judicial Magistrate Court,
Mettupalayam
2. The Public Prosecutor,
High Court of Madras,
Chennai.



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Dr.G.JAYACHANDRAN,J.

Vv

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