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Crl.O.P.No.29833 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.29833 of 2022
& Crl.M.P.No.18277 of 2022

Janaki ... Petitioner

vs.

1.Jaganathan

2.G.Palanisamy ... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 29.09.2022 made in Crl.M.P.No.3831 of 2022 in C.C.No.219 of 2017 on the file of the Judicial Magistrate No.II, Gobichettipalayam.

For Petitioner : Mr.M.Guruprasad

For Respondents : Mr.M.Ganesh for
for M/s.N.Manoharan for R1
No appearance - R2

ORDER

This petition has been filed challenging an order passed by the Court below allowing an application filed under Section 311 Cr.P.C. in Crl.M.P.No.3831 of 2022 for recalling PW1 for further examination.



Crl.O.P.No.29833 of 2022

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

3. The 1st respondent filed a complaint under Section 138 of Negotiable Instruments Act against the petitioner. The 1st respondent examined himself as PW1 and he was also cross examined. The accused person was also questioned under Section 313 Cr.P.C. Witness was also examined on the side of the petitioner and documents were marked. Thereafter, the petitioner filed an application under Section 311 Cr.P.C. for further examination of PW1. This was allowed by the Court below by order dated 29.09.2022. The same is put to challenge in the present petition.

4. This court has carefully gone through the order passed by the Court below and it does not suffer with any illegality or infirmity and the Court below has given sufficient reasons while allowing the application.

5. The learned counsel for the petitioner submitted that 1st respondent/complainant has attempted to come up a new story and thereby it will affect the defence that has been taken by the petitioner.

6. The petitioner has sufficient opportunity to cross examine the 1st respondent. Therefore, even if a new case is attempted to be brought out by the 1st respondent/complainant, it can be effectively thwarted by the petitioner during the cross examination. Ultimately, the 1st respondent wants to establish



Crl.O.P.No.29833 of 2022

that the petitioner knew about the fact that the bank account belongs to her husband and inspite of the same, she issued a cheque by signing it. This is a vital fact which has to be spoken by the witnesses in order to enable the Court below to appreciate the facts of the case and decide the issues involved.

7. In light of the above discussion, this Court does not find any ground to interfere with the order passed by the Court below in Crl.M.P.No.3831 of 2022 in C.C.No.219 of 2017 dated 29.09.2022 on the file of the Judicial Magistrate No.II, Gobichettipalayam and the same is hereby sustained and this Criminal Original Petition is dismissed. Connected Miscellaneous petition is closed.

08.08.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citations: Yes/ No
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Crl.O.P.No.29833 of 2022

N. ANAND VENKATESH, J.
mpl

**Crl.OP No.29833 of 2022
& Crl.M.P.No.18277 of 2022**

08.08.2023