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Crl.OP.No.521 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.521 of 2024

and

Crl.M.P.No.353 of 2024

1.M/s.Fly Big,
represented by Rajesh Kumar
13/7, IV Floor,
Dhandapani Street,
T.Nagar, Chennai - 600 017.

2.Rajesh Kumar
S/o.Chinnaya

... Petitioners

Vs.

M/s.Wirecard Forex India Private Ltd.,
No.136/1, Valluvarkottam High Road,
Nungambakkam,
Chennai - 600 034.
represented herein by Assistant Vice President
Mr.N.Murali

... Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C.,
praying to call for records and set aside the order dated 22.12.2023 in
Crl.M.P.No.58667 of 2023 in C.C.No.446 of 2020 on the file of
Metropolitan Judicial Magistrate, Fast Track Court II, Allikulam, Egmore.

For Petitioners : Mr.G.V.Sridharan

ORDER



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This Criminal Original Petition has been filed challenging the order passed by the Court below dismissing the petition filed under Section 311 Cr.P.C. in Crl.M.P.No.58667 of 2023 in C.C.No.446 of 2020, dated 22.12.2023.

2. The petitioners are facing trial for offence u/s.138 of the Negotiable Instruments Act. The proceedings were initiated in the year 2020. The petitioners did not cross-examine PW-1 and hence, filed a petition for recalling PW-1 for cross-examination. This petition was dismissed by the Court below and the same has been put to challenge before this Court.

3. This Court carefully considered the submissions made by learned counsel for petitioners and perused the materials on record.

4. This Court carefully went through the order passed by the Court below. The Court below has taken into consideration the fact that the second petitioner had earlier absconded at least on three occasions and every time, he filed a petition for recalling the non-bailable warrant and it



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was recalled. That apart, the petitioners had earlier filed a petition u/s.311 Cr.P.C. to recall PW-1 and even though the petition was allowed, the petitioners did not care to cross-examine PW-1. This is the third petition before the Court below seeking to recall PW-1 and the Court below had rightly dismissed the petition by assigning sufficient reasons.

5. When the matter was taken up for hearing, this Court had put a question to the learned counsel for petitioners as to whether the petitioners will be willing to deposit 20% of the cheque amount. This question was put keeping in mind Section 143-A of the Negotiable Instruments Act. Learned counsel for petitioners submitted that the petitioners were not in a position to deposit any amount.

6. In view of the above, this Court does not find any illegality in the order passed by the Court below and it does not warrant the interference of this Court.

N.ANAND VENKATESH, J.



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Accordingly, this Criminal Original Petition is dismissed.

Consequently, connected miscellaneous petition is closed.

10.01.2024

Speaking Order/Non-speaking Order

Index :Yes/No

Neutral citation: Yes/No

gm

To

The Metropolitan Judicial Magistrate,
Fast Track Court II,
Allikulam, Egmore.

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