



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.1515 of 2024

S.Indumathi

...Petitioner

Vs.

A.Suresh Kumar

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the order dated on 22.11.2023 in CrI.M.P.No.6933/2023 in STC No.1394 of 2020 on the file of the learned Magistrate, Fast Track Court (Magisterial Level) Poonamallee Court and further pass an order to recall PW1.

For Petitioner : Mr.V.S.Senthilkumar

ORDER

This criminal original petition has been filed challenging the order passed by the Court below dismissing the application filed under Section 311 of Cr.P.C., in CrI.M.P.No.6933 of 2023, dated 21.11.2023 for recalling PW1 for further cross-examination.



WEB COPY

2. This Court carefully considered the submissions made by the learned counsel for the petitioner and the materials available on record.

3. The petitioner is facing trial before the Court below for offence under Section 138 of the Negotiable Instruments Act. The respondent/complainant examined himself as PW1. He was also cross-examined on the side of the petitioner on 03.01.2023. After the completion of the examination of witnesses, the case was at the stage of final arguments. At that stage, an application came to be filed for recalling PW1 for further cross-examination. The same was dismissed by the Court below. Aggrieved by the same, the present criminal original petition has been filed before this Court.

4. The Court below has dismissed the application mainly on the ground that PW1 has already been cross-examined in detail. That apart, the case was repeatedly adjourned for arguments and at that stage, the application came to be filed to recall PW1 for further cross-examination. The Court below therefore came to a conclusion that the application has been filed only to drag on the proceedings.



5. This Court had the advantage of going through the deposition of PW1. It is seen that sufficient questions have been put to PW1 during the cross-examination.

According to the petitioner, no questions were put in the cross-examination touching upon the documents that were relied upon by the respondent. The documents that have been relied upon by the respondent are the cheques, return memos, legal notice and reply notice. The petitioner wants to establish that initially the cheques were presented on 03.08.2020 and it was returned and there was no reason to once again present the same cheques on 01.10.2020. The petitioner wants to point out this fact from the cheques and put questions. It is seen that PW1 has been cross-examined even on this aspect also.

6. The claim made by the petitioner is to the effect that the cheques were returned earlier on 03.08.2020 and no action was taken and subsequently, no instructions were given to the respondent to once again present the cheques, particularly due to the strain in relationship. Therefore, the cheque was once again presented only to get over the earlier return that took place on 03.08.2020. This is an issue which can be argued before the Court below based on the evidence that has already been collected. There is no requirement to recall PW1 for this purpose for further cross-examination.



N.ANAND VENKATESH, J

ssr

7. In the light of the above discussion, this Court does not find any illegality or infirmity in the order passed by the Court below and it does not require any interference of this Court.

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

31.01.2024

Index: Yes/No

Speaking order/Non-speaking Order

Neutral Citation: Yes/No

ssr

To

1. The Magistrate, Fast Track Court (Magisterial Level) Poonamallee Court.

2. The Public Prosecutor,
High Court, Madras.

CRL.O.P No.1515 of 2024