



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P. No.3593 of 2024
and Crl.M.P. No.2639 of 2024

1.A.L.M.Ponnusammy Mudaliar Sons
Rep. by its Proprietor S.Ravichandran
No.75, Singara Veedhi
Anthiyur,
Erode District – 638 501.

2.S.Ravichandran

...Petitioners

Vs

B.Rajesh

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to allow this Criminal Original Petition and set aside the order dated 01.11.2023 passed in CMP No.4664 of 2023 in STC No.568 of 2022 by the Judicial Magistrate II, Bhavani.

For Petitioner : Mr.P.Sesubalan Raja



ORDER

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This criminal original petition has been filed challenging the order passed by the Court below in C.M.P No.4664 of 2023 in S.T.C.No.568 of 2022, dated 01.11.2023 dismissing the application filed under Section 311 of Cr.P.C., to recall PW1 for further cross-examination.

2.Heard the learned counsel for the petitioner and carefully perused 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 was examined as PW1 on 17.03.2023. He was not cross-examined and hence, the evidence was closed and questioning under Section 313 of Cr.P.C., was also completed. Thereafter, the petitioner filed an application under Section 311 of Cr.P.C., to recall PW1 for cross-examination in CrI.M.P.No.1943 of 2023. This application was allowed and PW1 was recalled and he was also cross-examined in detail by the petitioner on 07.06.2023. Thereafter, on completion of the questioning under Section 313 of Cr.P.C., the case was at the stage of examination of defence



witnesses. At that stage, the present application came to be filed to recall PW1 for further cross-examination.

4.The main ground on which the above application was filed was that the petitioner wanted to put question on the financial wherewithal of the respondent. On carefully going through the cross-examination that was done by the petitioner on 07.06.2023, it is seen that the petitioner has put sufficient questions to the respondent on the financial wherewithal of the respondent. Therefore, the Court below rightly came to a conclusion that there is no reason to once again recall PW1. The order passed by the Court below does not suffer from any illegality or infirmity and it does not require the interference of this Court.

5.Accordingly, this criminal original petition stands dismissed. Consequently, connected miscellaneous petition is closed.

19.02.2024

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
ssr



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N.ANAND VENKATESH, J

SSI

To

- 1.The Judicial Magistrate II, Bhavani.
- 2.The Public Prosecutor,
High Court, Madras.

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