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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.3063 of 2024
and CRL.M.P No.2210 of 2024

Kamala

...Petitioner

Vs.

Prabavady

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the order dated 04.12.2023 made in CrI.M.P.No.1027 of 2023 in S.T.C.No.3311 of 2021 on the file of the Judicial Magistrate Court No.1, Puducherry and to allow the above Criminal Original Petition.

For Petitioner : Mr.C.Prabakaran

ORDER

This criminal original petition has been filed challenging the order passed by the Court below in CrI.M.P.No.1027 of 2023, dated 04.12.2023, allowing the application filed by the respondent/accused under Section 311 of Cr.P.C., to recall PW1 for cross-examination.



2. Heard the learned counsel for the petitioner and carefully perused the materials available on record.

3. The petitioner has filed a complaint against the respondent for offence under Section 138 of the Negotiable Instruments Act. The petitioner was examined as PW1. Since the petitioner was not cross-examined on the side of the respondent, the evidence on the side of the complainant was closed. The questioning under Section 313 of Cr.P.C., was also completed. At this stage, the respondent/accused filed an application to recall PW1 for cross-examination. The Court below on considering the facts and circumstances of the case and in order to afford one opportunity to the respondent to cross-examine PW1, allowed the application by order dated 04.12.2023. The same has been put to challenge in the present petition.

4. This Court carefully went through the order passed by the Court below. The case is of the year 2023. Therefore, the Court below thought it fit to give one opportunity to respondent/accused to cross-examine PW1. This is in view of the fact that there is a reverse burden cast upon the respondent under Section 139 of the Negotiable Instruments Act. Hence, in order to rebut the same, the Court below gave an opportunity to the respondent/accused to cross-examine



PW1. This order does not suffer from any illegality or infirmity and it does not warrant the interference of this Court.

5.Considering the fact that the petitioner is aged about 65 years and she has to once again come before the Court and face the cross-examination, there shall be a direction to the respondent to pay cost of Rs.1500/- to the petitioner. The petitioner shall be cross-examined on the same day of her appearance. The case shall also be disposed of, as expeditiously as possible.

6.This criminal original petition is disposed of with the above directions. Consequently, connected miscellaneous petition is closed.

14.02.2024

Index: Yes/No
Internet: Yes/No
ssr

To

1.The Judicial Magistrate Court No.1, Puducherry.

2.The Public Prosecutor,
High Court, Madras.



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N.ANAND VENKATESH, J

SSR

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