



WEB COPY



Crl.O.P.No.11014 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.11014 of 2024

and

Crl.M.P.No.7529 of 2024

P.Muthuselvam

... Petitioner

Vs.

M.Kannappan

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to set aside the order passed in C.M.P.No.153 of 2024 in S.T.C.No.211 of 2019 on the file of the Judicial Magistrate No.1, Udumalpet, dated 18.01.2024.

For Petitioner : Mr.E.Vijayakumar

ORDER

This Criminal Original Petition is filed to recall the complainant in the proceedings under Section 138 of Negotiable Instruments Act. Since the trial Court has found that in spite of affording adequate opportunity to the accused to cross examine the witness, he failed to avail that opportunity and the case been pending for more than five years, declined to entertain the petition to recall the witness.



CrI.O.P.No.11014 of 2024

WEB COPY

2. The learned counsel appearing for the petitioner submitted that since counsel was engaged in other works, witness could not be examined on the given date and if the opportunity is given, witness will be cross examined on that day.

3. This Court is not convinced with the said representation and request. The case has been taken on file in the year 2019 and it could not be completed in view of the non cooperation of the accused. The impugned order indicates that the case was adjourned to 01.12.2023 on condition that the petitioner should examine the witness on that day. However, on that day the accused did not attend the Court and therefore, the evidence of witness was closed. When the case was adjourned on 11.01.2024 after two opportunities already given to the petitioner, the accused/petitioner did not cross examining the witness present. The complainant who is the witness obviously been dragged to the Court without any effective progress for more than five years. Therefore, the trial Court has rightly dismissed the petition.



CrI.O.P.No.11014 of 2024

4. There is no reason available to interfere the trial Court order. Hence this Court confirms the same and dismiss this Criminal Original Petition as devoid of merits. Consequently, the connected Criminal Miscellaneous Petition is also dismissed.

03.06.2024

Index : Yes/No

Neutral Citation : Yes/No

rpl

To

The Judicial Magistrate No.1, Udumalpet.



WEB COPY



CrI.O.P.No.11014 of 2024

Dr.G.JAYACHANDRAN,J.

rpl

CrI.O.P.No.11014 of 2024

03.06.2024