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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.6405 of 2024

Senthilkumar

...Petitioner

Vs.

Annamalai

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the impugned order so far as the condition imposed in D, E Paragraph of order passed in CrI.M.P.No.583 of 2024 on the file of the Court of Judicial Magistrate No.II, Chidambaram on 28.02.2024.

For Petitioner : Mr.A.Venkatesan

ORDER

This criminal original petition has been filed challenging one of the condition that was imposed by the Court below while allowing the application filed by the petitioner under Section 311 of Cr.P.C., to reopen the evidence of the complainant and to recall PW1 for cross-examination.



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

3. The petitioner is aggrieved by condition (d) that was imposed by the Court below and the same is extracted hereunder:

d) During cross examination, if witnesses in the cross examination give evidence contradicting the evidence in cross, it is open to this Court after recording reasons to infer that the said witnesses have been won over and reliance can be placed on the cross examination as held by the Hon'ble Supreme Court in Vinod Kumar vs. State of Punjab reported in 2015 (1) scale 330 and Shivappa Waghmare vs. State of Maharashtra reported in 2015 (2) scale 330.

4. In the considered view of this Court, the offence that is involved in this case is under 138 of the Negotiable Instruments Act. Therefore, the above condition that was imposed by the Court below is unnecessary, since the complainant is not going to come and give contradicting evidence and destroy his own case. The above condition is clearly a non-application of mind resulting in formatted orders passed by the Trial Court. Hence, the above condition is hereby set aside. The other conditions imposed by the Trial Court shall stand as



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5. In the result, this criminal original petition stands allowed.

18.03.2024

Index: Yes/No

Speaking order/Non-speaking Order

Neutral Citation: Yes/No

ssr

To

1. The Judicial Magistrate No.II, Chidambaram.

2. The Public Prosecutor,
High Court, Madras.



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N.ANAND VENKATESH, J

SSR

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