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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P. No.7682 of 2024

K.Kavitha

...Petitioner

Vs

Mr.Otmal Heerachand
S/o.Heerachand Ji
Proprietor of Shree Mohankheda Investment,
Rep. by its Power Agent, Mr.Hitesh Kumar
S/o.Otmal Heerachand, No.11/A/1
Exambareswarar Agraharam Street, Park Town,
Chennai – 600 003.

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to waive the cost of Rs.10,000/- imposed on the petitioner/accused by the learned IV Fast Track Court, George Town, Chennai dated 08.03.204 in CrI.M.P.No.7026 of 2023 in STC No.1318 of 2022 and permit the petitioner/accused to cross examine PW1 on the day fixed by this Court.

For Petitioner : Mr.R.Arunkumar



ORDER

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This criminal original petition has been filed challenging one of the condition that has been imposed by the Court below while allowing the application filed by the petitioner 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 is facing trial before the Court below for offence under Section 138 of the Negotiable Instruments Act. The petitioner filed an application under Section 311 of Cr.P.C., to recall PW1 for cross-examination in CrI.M.P.No.7026 of 2023. The Court below took into consideration the fact that the petitioner was continuously taking adjournments in this case for more than ten occasions and thereby, the case was protracted. Therefore, the Court below allowed the application by imposing a condition that the petitioner should pay a sum of Rs.10,000/- as cost. Aggrieved by this condition, the present criminal original petition has been filed before this Court.

4. Taking into consideration the facts and circumstances of the case, this Court is inclined to reduce the cost from Rs.10,000/- to Rs.5,000/-. The petitioner is directed to



deposit this amount on or before 05.04.2024. On such deposit, the Court below shall fix a day to recall PW1 for cross-examination. It is made clear that PW1 will be cross-examined on the same day of his appearance and cross-examination will be completed on the same day. If for any reasons, the petitioner fails to cross-examine PW1 on the day of his appearance, the petitioner will loose her right to recall PW1 in future.

5.This criminal original petition is disposed of with the above directions.

28.03.2024

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

Note:Issue Order Copy on 01.04.2024

To

1.The IV Fast Track Court, George Town, Chennai.

2.The Public Prosecutor,
High Court, Madras.



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N.ANAND VENKATESH, J

SSR

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