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CrI.O.P.No.10160 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2024

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

CrI.O.P.No.10160 of 2024

A.K.Nagarajan

... Petitioner

Vs.

N.Velusamy

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to set aside the order dated 03.10.2023 passed in CrI.M.P.No.2549 of 2023 in STC.No.48 of 2018 on the file of the learned Judicial Magistrate-II, Pollachi and recall the PW.1 for cross examination.

For Petitioner : Mr.K.Vasanthanayagan

ORDER

This Criminal Original Petition is filed challenging the order passed by the trial Court dismissing the application to recall PW.1.

2. On perusing the records, this Court finds that PW.1 was



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examined in chief on 15.11.2021. Whereas the petition to recall this witness filed in the year 2023, same was considered and dismissed by the trial Court recording that on 15.11.2021, when the case was adjourned for examination of PW.1 on payment of costs of Rs.1,000/-, the petitioner has failed to comply the condition and cross examine of PW.1. After three years, the petition is filed to recall the witness which is only intention to delay the proceedings.

3. The learned counsel appearing for the petitioner states that due to illness and the matter been referred to mediation, there was delay in filing the petition to recall.

4. However, this Court finds that not only an inordinate delay in filing the petition to recall PW.1, which was rightly dismissed, even the present petition challenging that order not been filed within a reasonable time.

5. The learned counsel citing the delay in furnishing the certified copy states that there is no delay in preferring this petition.



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This Court is not able to countenance the said submission, since the matter is of the year 2016. Private complaint under Section 138 of N.I.Act been pending while the complainant been examined as early as November 2021. By filing petition to recall after delay of three years, the matter been pending for no reason, for want of bonafide, the trial Court rightly dismissed the petition. This Court confirms the order passed by the trial Court. As a result, this Criminal Original Petition is dismissed.

26.04.202

Index : Yes/No

Neutral Citation : Yes/No

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To

The Judicial Magistrate-II, Pollachi.



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Dr.G.JAYACHANDRAN,J.

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