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CrI.O.P.No.10735 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.10735 of 2024
& CrI.M.P.No.7284 of 2024

Mr.Rohit Mahadev Patil,
Proprietor of M/s.Jay Motors,
Near Maisaka Mandir,
Vita Sangali Road, Vita,
Taluka – Khanapur,
Dis Sangail 415 311.
Maharashtra.

... Petitioner/Accused

/versus/

M/s.Same Deutz Fahr India Private Ltd,
Represented by its Authorized Representative,
Mr.P.Ramesh,
No.72, Sipcot Industrial Complex,
Ranipet Vellore District,
Tamil Nadu – 632 402.

... Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set aside the order in CrI.M.P.No.10914 of 2024 in S.T.C.No.2674 of 2023 on the file of the Fast Track Magistrate No.II, Allikulam, Chennai, dated 08.04.2024.

For Petitioner : Mrs.Pooja Pradeep.



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ORDER

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This Criminal Original Petition is filed to set aside the order in Cr.L.M.P.No.10914 of 2024 in S.T.C.No.2674 of 2023 on the file of the Fast Track Magistrate No.II, Allikulam, Chennai.

2. The petitioner herein is an accused in a complaint filed under Section 138 of the N.I. Act. His grievance in this petition is that his application filed under Section 311 Cr.P.C. to recall P.W.1 and cross-examine him has been disallowed by the trial court, and hence, he must be given an opportunity to recall P.W.1 and cross-examine him regarding certain vital questions. The impugned order reveals that the complainant was examined as P.W.1 on 03.10.2023 and at the request of the petitioner/accused, the matter was adjourned to 09.11.2023 to cross-examine P.W.1. Instead of cross examining the witness, the accused has allowed the Court to close the deposition and thereafter taken out an application under Section 311 of Cr.P.C. to reopen and recall P.W.1. The same was allowed and the petitioner has cross examined P.W.1 on 18.12.2023. Again, an application was filed for further cross of P.W.1 and the same was allowed and the matter was listed on 31.01.2024. On that day, further cross of P.W.1 was done by the petitioner and completed the



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examination. While so, further petition under Section 311 of Cr.P.C., filed on 27.02.2024 which has been considered by the trial Court and found that the reason to recall P.W.1 is vague and that this is the second attempt of the petitioner to recall the complainant. The petition is only to prolong the trial and no genuineness was found in his case.

3. This Court finds that the complainant has given chief examination on 03.10.2023 and been present on various dates thereafter for the petitioner/accused to cross-examine him. The petitioner had done the cross examination in piecemeal. An earlier application filed under Section 311 of Cr.P.C., was allowed and he has completed the cross examination on 31.01.2024. Thereafter, a fresh application under Section 311 of the Cr.P.C. was filed to recall P.W.1, which has been rightly dismissed by the trial court, holding that the reason stated in the petition to recall P.W.1 is vague and further, there cannot be prolonged litigation by repeatedly recalling the witness.

4. This Court finds no merit in the application challenging the order passed by the trial Court disallowing the second petition filed under Section 311 of Cr.P.C.



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5. With the above observation, this ***Criminal Original Petition is dismissed.*** Consequently, connected Miscellaneous Petition is closed.

30.04.2024

Index : Yes/No.

Neutral Citation : Yes/No.

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Copy to:-

1. The Fast Track Magistrate No.II, Allikulam, Chennai.



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Dr.G.JAYACHANDRAN,J.

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