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Crl.OP.No.13254 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.OP.No.13254 of 2024

and

Crl.MP.No.8062 of 2024

V.Chakravarthi

... Petitioner

Vs.

Chandrasekaran

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set aside the order dated 05.04.2024 made in Crl.MP.No.8152 of 2023 in C.C.No.104 of 2018, on the file of the Judicial Magistrate, Fast Track Court-I @ ML, Coimbatore.

For Petitioner : Mr.W.Camyles Gandhi

For Respondent : Mr.S.Udayakumar
Government Advocate (Crl.Side)

ORDER

The petitioner is the accused in C.C.No.104 of 2018 arising out of offence under Section 138 of Negotiable Instruments Act.



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2. In support of the complaint, a promissory note alleged to have been executed by the accused and another person jointly been relied and marked by the complainant. In this connection, certain cross examination has also been made by the accused, but not been satisfied and elucidate that the said promissory note was not executed by the accused, two applications have been filed, one to re-call P.W.1 and another to refer the promissory note for hand writing expert's opinion on comparing the admitted signature with the disputed signature found in the promissory note been filed.

3. The trial Court extracting the portion of the cross examination and the dictum of Hon'ble Supreme Courts regarding re-call of witness has found that the petitioner is filed only to drag the proceedings and not for genuine reasons.

4. The learned counsel appearing for the petitioner referring the portion of Judgment which gives an impression that the trial Court has presumed that the accused has admitted the execution of promissory note Ex.P6 would submit that the said conclusion is contrary to the content of the testimony of P.W.1 and the suggestion put in the cross examination been wrongly understood by the trial Court.



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5. Since from the other reasons given by the trial Court to dismiss the petition under Section 311 of Cr.P.C, this Court finds that the observation regarding the portion of cross examination need not be a reason to interfere with the order. However, clarifies the observation regarding the execution of promissory note as found in the impugned order does not go in consonance with the portion of the deposition extracted in the impugned order. Therefore, the trial Court shall appreciate the evidence in entirety while passing final order and need not be carried away by impression or observations made in the order passed while dismissing the application filed under Section 311 of Cr.P.C, which is impugned under this Original Petition.

6. With the above observations, the Criminal Original Petition is disposed of. Consequently, the connected miscellaneous petition is closed.

07.06.2024

Vv

To
The Judicial Magistrate,
Fast Track Court-I @ ML, Coimbatore



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Dr.G.JAYACHANDRAN,J.

Vv

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