



Crl.O.P.No.12766 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.01.2024

Coram:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.12766 of 2023

and

Crl.M.P.No.7737 of 2023

L.Muniyandi, M/A-60 years,
Proprietor of M/s New Star Enterprises,
New No.526, Old No.627, T.H.Road,
Tondiarpet, Chennai 600 021.

Also at

New No.21, Old No.10, Solaiyappan Street,
Old Washermenpet, Chennai 600 021.

.. Petitioner

/versus/

K.Veeramani

.. Respondent

Criminal Original Petition has been filed under Section 482 of Cr.P.C., praying to set aside the order passed by the learned District Munsif cum Judicial Magistrate, Uthukkottai in C.M.P.No.99 of 2023 in S.T.C.No.75 of 2019, dated 17.05.2023 and thereby permit the petitioner/accused to cross examine PW-1.



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For Petitioner :Mr.S.Gopi
For Respondent :Mr.K.Manikandan

ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below in Crl.M.P.No.99 of 2023 in S.T.C.No.75 of 2019, dismissing the application filed under Section 311 of Cr.P.C., to recall PW-1 for further cross examination.

2. The petitioner is facing trial before the Court below for the offence under Section 138 of the Negotiable Instruments Act, 1881. The respondent/complainant was examined as PW-1 on 13.08.2021 and the respondent was cross examined in-part on 05.12.2022. Thereafter, the matter was posted to 27.12.2022 for further cross examination. Since further examination did not take place on that day, the evidence of PW-1 was closed. Thereafter, on 24.02.2023, the application came to be filed under Section 311 of Cr.P.C to recall PW-1 for further cross examination. The Court below dismissed the said application. Aggrieved by the same, the present Criminal Original Petition has been filed.



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3. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and also carefully considered the materials available on record.

4. Considering the facts and circumstances of the case and also the fact that the petitioner has to rebut the presumption under Section 139 of the Negotiable Instruments Act, 1881, this Court deems fit to give one last opportunity to the petitioner to recall PW-1 for cross examination. However, this Court wants to put the petitioner on terms.

5. In the light of the above discussion, the order passed by the Court below in Crl.M.P.No.99 of 2023 in S.T.C.No.75 of 2019, dated 17.05.2023 is hereby set aside. There shall be a direction to the petitioner to pay a cost of Rs.3,000/- to the respondent on the next hearing date (i.e.) on 02.02.2024. On the same day, PW-1 shall be further cross examined by the petitioner and it shall be completed on that day itself. If for any reason the petitioner does not comply with this



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direction, the petitioner will lose his right to recall PW-1 to cross examine in future.

6. In the result, this Criminal Original Petition is allowed in the above terms and there shall be a direction to the trial Court to complete the proceedings, within a period of three months, from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

19.01.2024

Index:yes/no
Speaking order/non speaking order
Neutral Citation:yes/no
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To

The District Munsif cum Judicial Magistrate, Uthukkottai.



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N.ANAND VENKATESH,J.

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