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Crl.O.P.No.2534 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.2423 of 2024

Hemadurga

... Petitioner

Vs.

Santhosh Kumar George

... Respondent

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to Set aside the order dated 20.09.2023 passed in Crl MP No.40901 of 2023 in STC No.9774 of 2022 on the file of the XXV Metropolitan Magistrate at Egmore, Chennai and allow the petitioner to adduce her evidence.

For Petitioner : Mr.S.Gunasekaran
for M/s.S.Nalini

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

This Criminal Original petition has been filed challenging the docket order passed by the Court below dated 20.09.2023 refusing to entertain the application filed by the petitioner under Section 311 of



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Cr.PC to recall defense witness for examining that witness on the side of the defense.

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 case was at the stage of examination of defense witness. On the day, when the petitioner was supposed to examine the witness, the petitioner was not able to be present before the Court due to some bereavement in the family. Hence, the petitioner filed an application to recall the defense witness.

4. The above application was dismissed by the Court below on the ground that the petitioner never examined any one on the side of the defence and therefore, there is no question of recalling a witness who was never examined.

5. The reason that is given by the Court below is perfectly right



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and some application has been filed before the Court below in a mechanical fashion. Hence, there is no ground to interfere with the order passed by the Court below.

6. If the petitioner wants to examine a defence witness, the petitioner must adopt the correct procedure by quoting the correct provision and some frivolous formatted applications cannot be entertained in a mechanical fashion.

7. This criminal original petition is disposed of accordingly.

08.02.2024

Speaking Order/Non-speaking Order

Index :Yes/No

Neutral citation: Yes/No

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To

1. XXV Metropolitan Magistrate at Egmore, Chennai

2. The Public Prosecutor,
High Court, Madras.



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N.ANAND VENKATESH, J

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