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Crl.R.C.No.1894 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.1894 of 2024

and

Crl.RC.No.15512 of 2024

J.K.Sherine Mobina

... Petitioner

Vs.

A.Vijayakumar

... Respondent

PRAYER: Criminal Revision Case filed under Section 438 r/w. 442 of BNSS to set aside the order passed in Crl.M.P.No.19150 of 2024 in S.T.C.No.3636 of 2023 on the file of the learned XXVII Metropolitan Magistrate (Fast Track Court for trial of cases under Section 138 of Negotiable Instruments Act) at Saidapet and consequently allow this petition.

For Petitioner : Ms.S.Babita

For Respondent : Mr.S.Sivashanmugam



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ORDER

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The revision petition challenges the dismissal of the petitioner's application to examine herself as a witness in a case instituted against her for the offence under Section 138 of the Negotiable Instruments Act.

2.The petitioner filed a petition stating that her examination is necessary to rebut the statutory presumption. The Trial Court found that the petition is bereft of any reasons and the petition that was filed at the fag end of the trial was intended to delay the proceedings and therefore, dismissed the said petition.

3.The learned counsel for the petitioner would submit that the examination of the petitioner on the side of the defence is absolutely necessary; that merely because no reasons have been assigned the petitioner's right to rebut the statutory presumption cannot be taken away and that in order to ensure the speedy disposal of the case, the petitioner would abide by any condition.



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4.Mr.S.Sivashanmugam, learned counsel for the respondent would point out the petition filed by the petitioner and submit that no reasons have been given for examination of the petitioner and that the petitioner had already availed of the opportunity to examine the defence witnesses and the instant petition has been filed only to delay the proceedings.

5.Though the petitioner had examined two other witnesses on the side of the defence earlier, the petitioner's right to examine herself as a witness cannot be denied. It is for the petitioner to rebut the statutory presumption under Section 138 of the Negotiable Instruments Act. However, there is force in the submission made by the learned counsel for the respondent that the petition has been filed at the fag end of the trial. Hence, to avoid further delay, this Court is of the view that the petitioner can be permitted to examine herself as a witness and a time limit can be fixed for such examination. Hence, the order impugned is set aside and the petitioner shall examine herself within a period of three weeks from the date of receipt of a copy of this order and the Trial Court shall thereafter conclude the trial as expeditiously as possible.



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6.In the result, the Criminal Revision stands allowed. Consequently, connected miscellaneous petition is closed.

25.11.2024

Index: Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation: Yes/No

cse

To

The XXVII Metropolitan Magistrate
(Fast Track Court for trial of cases under
Section 138 of Negotiable Instruments Act),
Saidapet.



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SUNDER MOHAN, J.

cse

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