



Crl.O.P.(MD)No.13279 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.11.2024**

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD) No.13279 of 2023

and

CrI.M.P.(MD) No.10369 of 2023

Ebinezar

... Petitioner

Vs.

R.Arumuganeri Nainar

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the order passed by the Judicial Magistrate, Valliyoor in CrI.MP.No.1825 of 2023 dated 20.04.2023 in CC.No.387 of 2021 and allow this Petition.

For Petitioner : Mr.C.Susikumar

For Respondent : No appearance

ORDER

This petition has been filed challenging the order passed by the learned Judicial Magistrate, Valliyoor, dismissing the application filed by the petitioner under Section 311 of Cr.P.C. to recall P.W.1 for cross examination.



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2.Heard the learned counsel for the petitioner and carefully perused the materials available on record.

3.The respondent filed a private complaint against the petitioner for offence under Section 138 of the Negotiable Instruments Act. The respondent examined himself as P.W.1 on 15.12.2021. Since he was not cross examined, the evidence of P.W.1 was closed. The petitioner filed Crl.M.P.No.887 of 2022 for recall of P.W.1 for cross examination. This petition was allowed and sufficient opportunities were given to the petitioner and in spite of the same, the petitioner did not choose to cross examine P.W.1. Hence, the cross of P.W.1 was closed on 22.09.2022.

4.The petitioner thereafter filed one more application under Section 311 of Cr.P.C. to recall P.W.1 for cross examination. The Court below has dismissed the application mainly on the ground that already an application was filed under Section 311 of Cr.P.C. and it was allowed and in spite of the same, the petitioner did not choose to cross examine



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P.W.1. Therefore, the Court below held that the petitioner is only trying to drag on the proceedings without any valid reason.

5.This Court does not find any illegality in the order passed by the Court below. The Court below was perfectly right in dismissing the application.

6.In the result, this Criminal Original Petitioner is dismissed. There shall be a direction to the Court below to complete the proceedings in C.C.No.387 of 2021 within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

21.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PKN

To
Learned Judicial Magistrate, Valliyoor.



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N.ANAND VENKATESH,J.

PKN

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