



Crl.O.P.(MD)No.22714 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.22714 of 2024

J.Selvakumar

... Petitioner

Vs

A.Vijayakumar

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to the order, dated 20.11.2024, in Cr.M.P.No.3675 of 2024 in C.C.No.94 of 2021 on the file of the Fast Track (Magistrate Level), Kovilpatti and set aside the same and consequently, direct the Fast Track Court (Magistrate Level), Kovilpatti to allow the petitioner to cross-examine the respondent herein.

For Petitioner : Mr.Porkodi Karnan
for M/s.Polax Legal Solutions

For Respondent : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

The petitioner/complainant had filed a private complaint under Section 138 of Negotiable Instruments Act against the respondent in



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C.C.No.94 of 2021. The petitioner had filed a recall petition under Section 311 of Code of Criminal Procedure and the trial Court, by an order dated 20.11.2024, had dismissed the same.

2. The contention of the petitioner is that the respondent/accused had borrowed a sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) from the petitioner/complainant. On repayment of the same, he had issued a cheque and the cheque was dishonored and hence, the case has been registered.

3. The defence taken by the respondent is that the cheque was not given to the petitioner, but was given to one Kamalesh, against whom, the petitioner had already lodged a complaint in Kovilpatti West Police Station. For this fact, the respondent had examined himself as D.W.1 and has been cross examined. Thereafter, the present petition has been filed. The petitioner/complainant has come to know about this fact and for that purpose, he has to recall the respondent/accused/D.W.1 for further cross examination.



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4. On perusal of the impugned order, it is seen that the respondent/accused has been examined as D.W.1 and he has been cross examined at length. Now, the evidence on either side has been closed and the case is now posted for arguments. At that stage, this petition has been filed by the complainant without giving any reason.

5. The trial Court's finding is that the petitioner has not given any reason and how it is justifiable to recall D.W.1 and for what reasons, no particulars have been given and what is the new facts are also not disclosed. Hence, dismissed the same.

6. This Court finds that the order of the trial Court is proper and hence, this Criminal Original Petition is dismissed.

20.12.2024

NCC : Yes / No
Index : Yes / No
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To

The Fast Track Court (Magistrate Level),
Kovilpatti



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M.NIRMAL KUMAR, J.

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