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Crl.O..P.No.2377 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.2377 of 2025

and

Crl.M.P No.1498 of 2025

K.K.Unni

..... Petitioner

Vs

C.Ravindran

..... Respondent

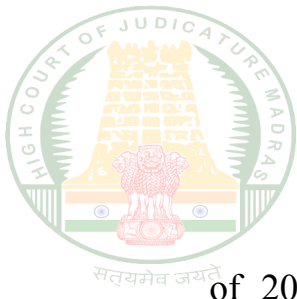
PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the order in C.M.P.No.4169 of 2024 in STC No.222 of 2022 dated 05.08.2024 passed by the Judicial Magistrate, Fast Track Court, Poonamallee consequently allow the petitioner to recall the witness filed by the petitioner.

For Petitioner : M/s.U.Anunitha

For Respondent : Mr.C.B.Murali Krishnan

ORDER

This Criminal Original Petition has been filed challenging the order dated 05.08.2024 passed in C.M.P.No.2169 of 2024 in STC No.222



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of 2022 by the Judicial Magistrate, Fast Track Court, Poonamallee, thereby dismissing the application filed under Section 311 of Cr.P.C. to recall P.W.1 for further cross examination.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner is an accused in the complaint lodged by the respondent for the offence under Section 138 of the Negotiable Instruments Act in STC No.222 of 2022 on the file of the Judicial Magistrate, Fast Track Court, Poonamallee. The respondent was examined as P.W.1 on 08.11.2023 in chief. The petitioner had cross examined P.W.1 on 17.10.2023 partly. Thereafter, the case was posted for further cross examination. However, the petitioner failed to cross examine P.W.1 on two occasions. Therefore, the Trial Court closed the evidence of complainant. Hence, the petitioner filed an application under Section 311 of Cr.P.C and the same was allowed. Even then the petitioner failed to cross examine P.W.1 till 16.04.2024. Once again the



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evidence of the complainant was closed. Thereafter, the petitioner filed a petition to recall P.W.1 to complete the cross examination.

4. Admittedly, the petitioner did not cross examine P.W.1 in full and when the case was posted for further cross examination of P.W.1, the petitioner's counsel who met with an accident and as such, the petitioner could not able to cross examine P.W.1. In view of the above, the petitioner may be given one more opportunity to purforth his defence by cross examining P.W.1.

5. In view of the above, order dated 05.08.2024 passed in C.M.P.No.2169 of 2024 in STC No.222 of 2022 by the Judicial Magistrate, Fast Track Court, Poonamallee, is hereby set aside on condition that the petitioner shall pay a sum of Rs.2,500/- to P.W. 1. The Trial Court is directed to fix a date for cross examination of P.W.1. If the petitioner fails to cross examine the said prosecution witness on the date fixed by the Trial Court, the Trial Court is directed to proceed with the trial in accordance with law.



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6. With the above direction, this Criminal Original Petition

stands allowed. Consequently, connected miscellaneous petition is closed.

10.03.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
Lpp

To

The Judicial Magistrate,
Fast Track Court,
Poonamallee.



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G.K.ILANTHIRAIYAN, J.
Lpp

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