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CRL OP No. 18677 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-09-2025

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

CRL OP No. 18677 of 2025

S.Rajagopalan

Petitioner(s)

Vs

Rakesh Nigam

Respondent(s)

PRAYER

To set aside the order dated 13.03.2025 of XV Court of Small Causes, Chennai in CrI.SR.No.536/2024 in STC.No.970/2021 and direct the trial court to summon the complainant's earlier legal counsel (Mr.Praveen Alexander) for cross examination under section 311 CrPC (now Section 348 BNSS).

For Petitioner(s): S. Rajagopalan (p-in-p)

For Respondent(s): Ms.L.Maithili



ORDER

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The petitioner/party-in-person challenges the order passed by the Trial Court in dismissing the application filed under 311 Cr.P.C. to recall the witness and also to examine the erstwhile counsel of the complainant.

2. The grievance of the petitioner/party-in-person is that the cheque issued by him was out of coercion. That apart, the promissory note is also not executed on his freewill, he only put the signature and the erstwhile counsel of the complainant filled the promissory note. Therefore, in this regard, he wants to examine the earlier counsel of the complainant in this case. Hence, he filed an application to recall the witness, which was rejected by the trial Court, as against which, the present petition is filed.

3. The party-in-person would submit that the complainant has alleged that as if the promissory note has been written as per the instructions of the party-in-person and in this regard, he wants to cross examine the counsel.

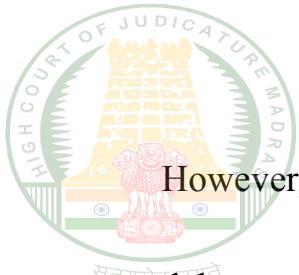


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4. Heard both sides and perused the records.

5. At the outset this Court is of the view that the very application for cross examination of the counsel is not maintainable. Even assuming that any communication shared between the parties and the counsel, the same is saved under Section 126 of the Indian Evidence Act. The lawyers cannot be forced to divulge communications made in the course of professional duty.

6. With regard to the other aspect to cross examine other witness, from the submission of the petitioner it makes it clear that the issuance of cheque is not disputed and the only contention is that the cheque has been issued out of coercion. It is a question of fact. The person who pleads coercion has to establish the same in the manner known to law. Therefore, at this stage on the whims and fancies of the parties, the application to recall is not maintainable. I do not find any merit in this petition. Accordingly, this petition is dismissed.



However, the Trial Court shall dispose of the case early without any further delay.

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pvs

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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N.SATHISH KUMAR J.

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