



Crl.O.P.No.3641 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2025

CORAM:

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

Crl.O.P.No.3641 of 2025

and

Crl.M.P.No2400 of 2025

S.Sujatha

... Petitioner

Vs.

K.Nirmal

... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the order dated 15.06.2024 passed by the learned Magistrate in Crl.M.P.No.9521 of 2023 in C.C.No.8179 of 2018 on the file of the learned FTC-III, Metropolitan Magistrate, Saidapet.

For Petitioner : Mr.V.K.Sathiamurthy
For Respondent : Mr.C.R.Prasanan

ORDER

This Petition has been filed challenging the order dated 15.06.2024 in Crl.M.P.No.9521 of 2023 in C.C.No.8179 of 2018, on the file of the learned FTC-III, Metropolitan Magistrate, Saidapet, thereby dismissing the petition filed under Section 311 of Cr.P.C. to recall and re-examine PW1 and to mark the petition-mentioned document.

2. Heard the learned counsel for both sides and perused the



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materials available on record.

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3. The petitioner is the complainant, and the complaint was lodged against the respondent for the offences under Section 138 of the Negotiable Instruments Act and the same has been taken cognizance in C.C.No.8179 of 2018. Thereafter, the chief examination was completed on 18.02.2020 and at the instance of the accused, the matter was posted for further cross-examination of PW.1. However, the accused kept dragging the matter and did not come forward to cross-examine PW.1 for three years and it was closed after cross-examination on 20.02.2023.

4. While that being so, the accused filed a petition on 28.04.2023 to recall PW.1 for marking further documents and the same has been allowed, and the PW.1 was cross-examined on 30.05.2023. Thereafter, the petitioner/complainant filed a petition on 13.06.2023 to recall the PW.1 for marking additional documents. The complaint was taken cognizance in the year 2018. After a period of seven years, the petitioner claims to mark additional documents through PW.1 to prove that the respondent admitted the liability. In fact, those documents were found



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only now. However, the petitioner is in possession of those documents even from the initiation of the complaint. Therefore, the petitioner filed a petition to recall the PW.1 for marking additional documents, which would amount to filling up the lacuna. The Trial Court rightly dismissed the petition. As such, this Court finds no infirmity or illegality in the order passed by the Trial Court.

5. Accordingly, this Criminal Original petition is dismissed. Consequently, the connected Miscellaneous Petition is closed.

04.03.2025

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

To

1. The FTC-III, Metropolitan Magistrate, Saidapet.



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2. The Public Prosecutor,
High Court of Madras,
Chennai.



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G.K.ILANTHIRAIYAN, J.

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