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Crl.O.P.No.845 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2025

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.845 of 2025

and

Crl.M.P.No.312 of 2025

Sujatha

... Petitioner

Vs.

R.Manikandan

... Respondent

Prayer: Criminal Original Petition filed under Section 528 of B.N.S.S. to set aside the order 26.11.2024 passed by the learned Fast Track Court-II, Allikulam, Chennai in Crl.M.P.No.67104 of 2024 in S.T.C.No.12944 of 2024 pending on the file of Fast Track Court-II, Allikulam, Chennai

For Petitioner

: Mr.B.Senthil Kumar

ORDER

This Criminal Original Petition has been filed by the petitioner to set aside the order dated 26.11.2024 passed by the learned Fast Track Court-II,



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Allikulam, Chennai in Crl.M.P.No.67104 of 2024 in S.T.C.No.12944 of 2024

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on the file of Fast Track Court-II, Allikulam, Chennai.

2. The case of the petitioner is that, the respondent filed a complaint against the petitioner in S.T.C.No.12944 of 2024 on the file of Fast Track Court-II, Allikulam, Chennai under Section 138 of the Negotiable Instruments Act. Pending complaint, the petitioner filed a petition before the Magistrate in Crl.M.P.No.67104 of 2024 under Section 311 Cr.P.C. to call P.W.1. The said petition was dismissed by the Magistrate on 26.11.2024. Against which, the present petition is filed.

3. The contention of the petitioner is that the dismissal order passed by the Court below is against law. The Court below ought to have allowed the petition filed under Section 311 Cr.P.C. and given an opportunity for the defense side and that the reason assigned by the Magistrate for dismissing the petition is unjust.

4. Heard the learned counsel for the petitioner and perused the materials



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available on record.

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5. Since no adverse order is being passed against the respondent, notice to the respondent/complainant is dispensed with.

6. A perusal of the impugned order shows that the respondent/complainant was examined in chief as P.W.1 on 31.07.2024 itself. But the petitioner did not cross examine the witness. Thereafter, the petitioner filed a petition under Section 311 Cr.P.C. to cross examine P.W.1 and the same was also allowed. However, the petitioner did not cross examine the witness on the same day of appearance of P.W.1 and hence, P.W.1 evidence was closed. After questioning under Section 313 Cr.P.C. and when the matter was posted for arguments, the petitioner filed another petition in Crl.M.P.No.67104 of 2024 to recall P.W.1. Despite sufficient opportunities were given, the petitioner did not utilise the same and proceeded the case and therefore, the Magistrate dismissed the petition narrating all the facts.

7. This Court also finds that the petitioner was given sufficient



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opportunities, however, he did not utilize the same and wilfully evaded to

utilize the opportunities in order to protract the case. Therefore, this Court does

not find any merits in this petition.

8. Accordingly, this Criminal Original Petition is dismissed.

Consequently, connected Miscellaneous Petition is closed.

10.01.2025

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

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To

The Fast Track Court-II, Allikulam,
Chennai



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P.VELMURUGAN. J.

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