



Crl.O.P.(MD)No.11445 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.07.2025

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

Crl.OP(MD)No.11445 of 2025 and
Crl.MP(MD) No.8654 of 2025

G.Bhuvani

... Petitioner

Vs

M.Jagathambal

...Respondent

Prayer : Criminal Original Petition filed under Section 528 of BNSS, to set aside the impugned dismissal order dt.08.11.2024 in Crl MP No.4943 of 2024 in STC No.3895/2021 on the file of the Learned Judicial Magistrate No.VI, Trichirappalli to recall the P.W.1 witness for cross examination.

For Petitioner

: Dr.R.Alagumani,

ORDER

The petitioner/accused in STC No.3895 of 2021 has filed an application in Crl MP No.4943 of 2024 in STC No.3895 of 2021, under



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Section 311 of Cr.P.C, to recall PW 1, for the purpose of cross examination, before the Judicial Magistrate Court No.VI, Trichy and the same was dismissed by the learned Magistrate. Challenging the same, the petitioner has filed this petition.

2. The respondent/PW1 has filed a complaint as against this petitioner in STC No.3895 of 2021 for the offence punishable under the provisions of Negotiable Instruments Act. The respondent/ PW 1 was examined in chief on 30.11.2022. Thereafter, the case was listed for 13 hearings from 30.11.2022 to 01.02.2024, for the purpose of cross examination. The petitioner has failed to cross examine PW1 and filed an application, under Section 311 of Cr.PC, to recall PW 1. The said application in Cr.MP No. 4943 of 2024 was dismissed by the learned Magistrate on 08.11.2024. The learned counsel for the petitioner has justified that the previous counsel has failed to cross examine the witness and for that, the petitioner should not be penalized and therefore, he may be provided with one opportunity.



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3.This Court is not inclined to appreciate the conduct of the petitioner in evading the trial in a proceedings under Section 138 of Negotiable Instruments Act.

4.Considering the attitude of the petitioner in evading the trial for a period of two years and also preferred this application as against the order, dated 08.11.2024, this Court is inclined to permit the petitioner to cross examine PW 1, on payment of cost of Rs.20,000/-. The petitioner has to pay a sum of Rs.20,000/- directly to the respondent and along with acknowledgement for payment made by him, he shall file an application before the Judicial Magistrate Court No.VI, Trichy. The application so filed along with the payment receipt shall be entertained by the learned Judicial Magistrate and the petitioner may be provided with one more opportunity to cross examine PW 1 on a specific date and on the date specified by the learned Judicial Magistrate, the petitioner has to cross examine PW 1, without fail.



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5.With the above directions, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

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NCC : Yes/No
Index : Yes/No
vrn

To

The Judicial Magistrate No.VI, Trichy



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vrn

Order made in
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