

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 29.4.2015

Date of verdict : 02.06.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP No.11043 of 2015
& M.P.No.1 of 2015

S.Vijay

..Petitioner/Accused.

vs.

M/s.Anamika Amaravathi Trades & Investment (P) Ltd.,
Rep.by its duly authorized "Legal Assistant"
T.Bhuvarahamurthy
Aged 60 years, having its Office at "Singapore Plaza"
No.337, (old No.164), Linghi Chetty Street
Chennai 1

.. Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C.,
to set aside the order in M.P.No.525/2015 in C.C.No.192/2012 dated
27.3.2015, on the file of the Fast Track Court-IV, Metropolitan
Magistrate, George Town, Chennai and allow this Criminal Original
Petition.

For Petitioner :Mr.M.Paul Selvan

ORDER

Heard the learned counsel for the petitioner.

2. The accused is the petitioner before this Court. The complainant is the respondent. For the sake of convenience, the parties are referred to as complainant and the accused.

3. It is the case of the complainant that the accused had borrowed Rs.9 Lakhs on 23.6.2011 and another sum of Rs.8 Lakhs on 29.7.2011 and had executed promissory notes in favour of the complainant. When the complainant demanded repayment of the borrowed amounts, the accused issued two cheques, one dated 6.10.2011 for Rs.8 Lakhs and 5.10.2011 for Rs.7 Lakhs, which when presented by the complainant, were dishonoured. The complainant issued a statutory notice on 9.11.2011 to the accused and on the failure of the accused to repay the amount within the stipulated period, the complainant preferred a complaint in C.C.No.192 of 2012 before the learned VII

Metropolitan Magistrate, George Town, Chennai-1 for an offence under section 138 of N.I.Act.

4. The representative of the complainant company was examined as P.W.1 and in the course of cross-examination of the witness, the witness stated that the accused subscribed a chit from Arjun Amaravathi Chits Private Limited. Based on this statement, the accused filed an application under section 91 of Cr.P.C for production of files relating to Chit A9-t1 from Arujan Amaravathi Chits Private Limited and nine documents relating to Balance Sheet, Profit and Loss Account, Memorandum of Articles, etc. The petition filed by the accused was resisted by the complainant by saying that the records relating to Arjun Amaravathi Chits Private Limited has nothing to do with the transaction in question because the loan application given by the complainant company based on a promissory note executed by the accused and in discharge of that debt, the accused had issued the cheques in question, which are the subject matter of the present complaint.

5. The trial court, after carefully considering the rival submissions has dismissed the application filed by the accused and aggrieved by which the accused has approached this Court to set aside the order dated 27.3.2015 passed by the trial court in M.P.No.525 of 2015 in C.C.No.192 of 2012.

6. The learned counsel for the petitioner submitted that those documents are necessary and relevant for the just decision of the case.

7. This Court carefully perused the records and found that the present complaint in C.C.No.192 of 2012 has been lodged by Anamika Amaravathi Trades and Investment (P) Ltd., for the loan taken by the accused on promissory notes. Chit transactions relate to a different company, namely Arjun Amaravathi Chits Private Limited. Just because some of the Directors of both Companies are same, it cannot lead to the inference that the transactions are same. It is obvious that the accused has been adopting dilatory tactics by filing an application to call for records, which would have no bearing on the case in hand.

8. In State of Orissa vs. Debendra Nath Padhi reported in 2004 AIR SCW 6813, the Hon'ble Supreme Court has cautioned that the provisions of Section 91 Cr.P.C cannot be used to permit a roving and fishing enquiry.

9. Similarly, in Dr.Rajesh Talwar and another vs. CBI and another, reported in 2013 (4) MLJ 362 SC, the Hon'ble Apex Court has reiterated the principle that the accused should not be permitted to resort to these provisions for the purpose of protracting the trial.

10. In the case on hand, the accused has not even given sound reasons in the petition as to how the documents that are called for, would be necessary for a just decision of the case. The documents that have been called for have no nexus or relevance to the case under trial.

11. In the result, the Criminal Original Petition is devoid of merits and is dismissed. Consequently, the connected Miscellaneous Petition is closed.

ajr

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1. Fast Track Court-IV,
Metropolitan Magistrate,
George Town, Chennai

2. The Public Prosecutor
High Court, Madras.

+ 1 cc to M/s.P.Paul Selvam, Advocate SR 25848

sr(co)
prk9/6

Cr1.OP No.11043 of 2015

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