

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2015

CORAM

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

Crl.R.C.NO. 1372 of 2014
and M.P.No.1 of 2014

1.R.K.Emu Farms
rep.by its Partner,
R.Kannusamy

2.R.Kannusamy
Partner cum authorised Signatures of R.K.Emu Farms

3.P.Mohanasundaram
Partner of R.K.Emu Farms ... Petitioner/ Accused

vs.

K.Muthu ... Respondent/ Complainant

PRAYER: Criminal Revision Case filed under Sections 397 and 401 of Criminal Procedure Code to call for the records relating to the order dated 16.06.2014 made in Crl.M.P.No.2479 of 2014 in STC No.148 of 2013 on the file of the learned Judicial Magistrate, FTC, Tiruchengode and to set aside the same.

For Petitioners : Mr.D.Gopal

JUDGMENT

STC No.148 of 2013 has been taken on file, under Section 138 of the Negotiable Instruments Act, 1881, against the petitioners. During the pendency of the same, Crl.MP No.2479 of 2014 has been taken out, with a prayer to return the materials to the respondent/complainant for presentation to the Special Court for the Tamil Nadu Protection of Interest of Depositors (in Financial Establishments) Act, 1997, Coimbatore, or to transfer the proceedings in STC No.148 of 2013 to the Special Court.

2.Material on record discloses that in STC No.148 of 2013, the accused/petitioners have appeared before the Court below. Copies have been furnished. They pleaded not guilty. PW1/complainant has

been examined. Accused has not chosen to cross examine PW1. Hence, complainant's evidence has been closed. On 05.10.2013, the accused have filed a petition under Section 91 of the Code of Criminal Procedure read with 45 of the Indian Evidence Act. The said petition has been allowed. But, the petitioners/accused, did not pay the fees for sending the disputed cheque for comparison to the handwriting expert. On 05.05.2014, the petitioners/accused have filed a memo stating that they are not willing to send the disputed cheque for comparison and hence, not pressed the petition filed under Section 91 of the Code of Criminal Procedure read with 45 of the Indian Evidence Act. When the matter stood thus, the petitioners have filed CrI MP No.2479 of 2014 in STC No.148 of 2013, on the file of the learned Judicial Magistrate, Fast Track Court, Tiruchengode, with a prayer to return the materials to the complainant/respondent. While addressing the prayer sought for, with reference to the petitions, stated supra, the learned Judicial Magistrate, FTC, Tiruchengode, has ordered as follows:

"While so, the petitioner herein has not specifically stated what is the number of the case registered by the Economic Offence Wing i.e., pending before the Special Court and also the fact whether this respondent/complainant is one of the claimant there in etc., there is no specific averments in the petition regarding the nature of the case pending before the Special Court and even the number of the case allegedly pending before the Special Court was also not mentioned in the petitioner. The petition is very vague in particulars. Hence, this Court is not inclined to allow this petition.

Hence on considering all the above, this Court is inclined to dismiss the petition.

In the result, this petition is dismissed."

For the reasons stated supra, learned Judicial Magistrate, FTC, Tiruchengode has dismissed CrI MP No.2479 of 2014.

3. Earlier, when the matter came up on 28.01.2015, Mr.P.Govindarajan, learned Additional Public Prosecutor, was directed to ascertain the stage of the proceedings in STC No.148 of 2013. On instructions, learned Additional Public Prosecutor submitted that before the Court below, the case was listed on 27.01.2015, for the defence evidence. Though the revision petitioner has contended that with reference to the money transaction, which has given rise to the proceedings under Section 138 of the Negotiable Instruments Act, 1881, was subsequently, investigated by the Deputy Superintendent of Police, EOW-II, Salem and a charge sheet has been filed on 28.01.2014 before the Special Court for the Tamil Nadu Protection of Interest of Depositors (in Financial Establishments) Act, 1997, Coimbatore, and reiterated

return of the materials to the respondent/complainant for presentation before the Special Court, this Court is not inclined to accept the said submissions. Even before this Court, no concrete materials have been furnished, in support of the averments made in the CrlMP. There is no illegality in the impugned order, warranting interference.

Accordingly, this Criminal Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

mps

To

1.The Judicial Magistrate,
FTC, Tiruchengode.

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

1 cc to M/s.D. Gopal, Advocate, Sr. 4259

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