

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2015

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.13545 of 2015

and

M.P.1 of 2015

Ramdoss Petitioner/ Respondent
Vs
Rajaram Respondent/ Accused

Criminal Original Petition filed under Section 482 Cr.P.C., praying to set aside the order dated 13.03.2015 and made in Crl.M.P.No.3530 of 2014 in C.C.No.12/11 on the file of I Additional Munsif Court cum Judicial Magistrate No.1, Ulundurpet.

For Petitioner : Mr.N.A.Nissar Ahmed

For Respondents : Mr.C.Emalias, Addl. Public Prosecutor

O R D E R

This Criminal Original Petition has been filed praying to direct the respondent to set aside the order dated 13.03.2015 and made in Crl.M.P.No.3530 of 2014 in C.C.No.12/11 on the file of I Additional District Munsif Court cum Judicial Magistrate No.1, Ulundurpet.

2. Heard Mr.N.A.Nissar Ahmed, learned counsel for the petitioner and Mr.C.Emalias, learned Additional Public Prosecutor appearing for the respondent.

3. The accused and the petitioner before this court. For the sake of convenience, the parties will be referred as complaint and accused.

4. On a complaint lodged by the complainant/respondent for offences under Section 138 of Negotiable Instruments Act, the learned Judicial Magistrate No.1, Ulunthurpet took the same on file as C.C.No.12/2011 and the complainant was examined as PW1. During the course of trial, the complainant filed an application under Section 311 Cr.P.C for summoning the bank managers for the purpose of giving evidence in order to prove that the accused did not have sufficient funds at the time, when the cheque was dishonoured.

5. The application filed by the complainant in Crl.M.P.Nos.3530/2014 and 3531/2014 was registered by the accused and the learned Magistrate by a well considered order dated 13.03.2015 allowed the application and permitted the complaint to summon the bank managers. Aggrieved by the order, the accused before this court.

6. The learned counsel for the petitioner submits that the order impugned is not maintainable in as much as that the complainant has not cited these witnesses in the complaint. I am unable to persuade myself to agree with the submission, in view of the provisions of section 311 and 91 Cr.PC. where the power of the court to summon and examine any witness, whose evidence would be relevant for the just decision of the case. In this case, evidence of the bank managers are essential and therefore the order of the trial court does not suffer from any serious infirmity. In the result, this petition is dismissed. Consequently, connected Miscellaneous petition is also closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To

1. The Public Prosecutor,
High Court, Madras.

1 cc to Mr.N.A.Nissar Ahmed, Advocate, sr. 27269

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