

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.13974 of 2015
& MP.No.1 of 2015

E.Mahadevan

.. Petitioner

Vs

T.Mariya Jesuraj

.. Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to the Order dated 22.05.2015 passed by the Learned Judicial Magistrate, Fast Track Court, Magistrate Level, Ambattur in CMP. No.1513 of 2015 in S.T.C.No.203 of 2014 and set aside the same.

For Petitioner :Mr.N.Raja Senthoo Pandian

ORDER

Seeking a direction to the Learned Judicial Magistrate, Fast Track Court, Magistrate Level, Ambattur to call for the records pertaining to the Order dated 22.05.2015 in CMP. No.1513 of 2015 in S.T.C.No.203 of 2014 and set aside the same, the petitioner has come up with this petition.

2. Heard the learned counsel for the petitioner.

3.On a perusal of the materials available on record, it is seen that the accused is the petitioner before this Court. The said accused/petitioner has filed C.M.P.No.1513 of 2015 under Section 91 of Cr.P.C. before the Trial Court. The petitioner/accused is facing trial for an offence under Sections 138 of N.I. Act before the Fast Track Court, Magisterial Level, Ambattur.

4.During the cross examination of the PW1, the petitioner has elicited certain facts to the effect that the complainant has not submitted the income tax returns, based on that, the petitioner has filed petition under section 91 of Cr.P.C., calling upon the complainant to produce three documents namely:

(a) Respondent/Complainant's PAN Card

(b) The Jewels pledging receipts for the sum of Rs.14,00,000/- issued by the M/s.Muthut Pincot at Ramanathapuram.

(c) Statement of Accounts for the period 01.01.2012 to 30.04.2015 for his bank account at (1) State Bank of India, Redfields, Coimbatore Branch (2) South Indian Bank, Sangam Branch, Trichy (3) Indian Bank, Puliyamkulam Branch (4) HDFC Bank Oppanakara Street Branch.

5. The Trial Court has dismissed the application holding that those documents are not relevant for the adjudication of the offence under Section 138 of the N.I. Act.

6. Aggrieved over the dismissal of the said petition, the petitioner/accused is now before this Court.

7. The learned Counsel for the petitioner has submitted that the production of above said three documents is important for proving his defence and further submitted that PW1 has admitted the loan amount and he had shown the same in his income tax returns.

8. This Court is of the view that, when PW1 states that, he has not shown the amount in the income tax returns, it is not necessary to call for the said returns to prove the said fact.

9. Similarly, PW1 has stated that he had obtained loan by pledging jewels of his wife and daughter, for the purpose of giving loan. After having elicited such a reply in the cross examination, it is not open to the petitioner to file an application under Section 91 of Cr.P.C, calling upon PW1 to produce the jewel pledge receipt. These documents are not relevant to decide the real issue before the Trial Court. Therefore, this Court does not find any serious infirmity in the order passed by the Trial Court.

10. This Criminal Original Petition is dismissed with the above observation. Consequently, connected miscellaneous petition is also closed.

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s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1.The Judicial Magistrate,
Fast Track Court, Magistrate Level,
Ambattur

+ 1 cc to Mr.N.Rajasenthoo Pandian, Advocate SR 10686

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