

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.07.2015

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.16211 of 2015
and MP.No.1 of 2015

1.M/s.Victory Apparels [India] Pvt. Ltd.
Plot No.K20 & K21, South Avenue Road,
SIPCOT Industrial Park,
Irungattukottai,
Kancheepuram-602 117.

2.Mr.Shyam Vashdev Bathija,
Managing Director,
M/s.Victory Apparels [India] Pvt. Ltd.
Plot No.K20 & K21, South Avenue Road,
SIPCOT Industrial Park,
Irungattukottai,
Kancheepuram-602 117. Petitioners/Respondents/Accused

Vs

M/s.R.Arthanari Chettiar,
Rep by its partner A.Padmanaban,
S/o.R.Arthanari Chettiar,
Head Office at 24, East Alamara Street,
Jalakandapuram,
Salem-636 501.
Branch office at 383,
Trichy Main Road, Gugai,
Salem-636 006. Respondent/Petitioner/Complainant.

Criminal Original Petition filed under Section 482 of Cr.P.C.,
praying to call for the records so far relate to order passed in
Crl.M.P.No.1822 of 2015/STC.No.1234 of 2012 on the file of Judicial
Magistrate No.III, Salem and set aside the same.

For Petitioner : Mr.P.Sundar Rajan

O R D E R

This petition has been filed to set aside the order dated
26.05.2015 in Crl.M.P.No.1822 of 2015 passed by the learned Judicial
Magistrate No.III, Salem.

2. Heard the learned counsel for petitioners and perused the materials placed on record.

3. It is seen that the petitioners herein are accused in CC.No.1234 of 2012 for an offence under Section 138 of Negotiable Instruments Act. The complainant was examined as PW1 and he was also cross-examined. After a lapse of three years, the complainant has filed an application under Section 311 Cr.P.C for the purpose of marking certain documents namely, Partnership Deed, etc. which was numbered as Crl.M.P.No.1822 of 2015 and after hearing both sides, the learned Magistrate by order dated 26.05.2015 has allowed the application with cost of Rs.500/- challenging which, the accused is before this Court.

4. Learned counsel for the accused submits that the petition should not have been allowed by the Magistrate, especially after a lapse of three years.

5. No doubt a period of three years has lapsed, but that cannot be the only reason for denying the prayer of the complainant under Section 311 Cr.P.C because, 311 Cr.P.C clearly states that a petition can be filed at any time before the Judgment is delivered. The learned Magistrate has also awarded cost in favour of all the accused. Therefore, this Court does not find any infirmity in the order.

6. This Court directs the Magistrate to complete the examination of PW1 within four weeks, from the date of receipt of a copy of this order and the accused is entitled to cross-examine PW1 thoroughly on the documents that are to be marked through him.

With the above observation, this petition is closed. Consequently, connected Miscellaneous Petition is closed.

gya

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Judicial Magistrate No.III,
Salem.

+ 1 cc to Mr.P.sundarrajan, Advocate SR 37350

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