

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.07.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.OP.No.16590 of 2015

and

M.P.No.1 of 2015

Dhananjeyan

... Petitioner/Complainant

Vs

Mohan

... Respondent/Accused

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in CC.No.651 of 2007 pending on the file of XVII Metropolitan Magsitrate, Saidapet, Chennai, and set aside the dismissal order dated 17.10.2014 made in CrIIMP.No.2712 of 2014.

For Petitioner : Mr.L.K.Manjunath

For Respondent : Mr.C.Emalias
Additional Public Prosecutor

ORDER

This petition has been filed to set aside the order dated 17.10.2014 in CrIIMP.No.2712 of 2014 in CC.No.651 of 2007 on the file of XVII Metropolitan Magsitrate, Saidapet, Chennai.

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

3.First of all, the petitioner/complainant filed a private complaint against the respondent/accused alleging that he had committed an act of cheating. The private complaint states in the preamble about the Indian Evidence Act and various Judgments by the Courts on the admissibility of tape recorder evidence. Thereafter, the complaint has gone on to the facts of the case. On reading of the facts of this case, it is seen that the complainant is a building contractor and he had engaged his nephew, who is a Civil

Engineering Diploma holder. The grandfather of the accused appears to have planned to construct a Kalyana Mandapam at Villivakkam and had entrusted the construction contract to the complainant and there were difference of opinion in labour contract between the complainant and the accused.

4.It appears that the accused and his uncle had agreed for the construction of the Kalyana Mandapam and in that process, it is alleged that the accused had not given certain accounts to the complainant. On a complete reading of the complaint, it essentially appears to be a dispute between partners and the trial Court had taken cognizance of the offence and issued process in the year 2007. The accused has been appearing before the trial Court and the complainant was examined in Chief on 02.01.2011, 21.01.2011 and finally, it was closed on 14.02.2011. From 2011 to 2014, no substantial progress appears to have been made. Thereafter, the trial Court closed the evidence on the complainant's side on 02.07.2014 and posted the case for framing of charges. At that juncture, the complainant appears to have filed a petition under Section 311 CrPC for further examination in Chief for the purpose of marking Tamil translation of Telugu transcripts. The trial Court has rightly dismissed the application by the order dated 17.10.2014, challenging the same, this petition has been filed before this Court.

5.It is seen that the orders passed by the trial Court does not suffer from any infirmity. The said conversation was available with the petitioner even at the inception of the complaint as stated in the preamble therein. Thereafter, between 2007 and 2014, the complainant had not taken any steps to mark the transcription when he was examined in Chief. But, the accused has been diligently appearing before the trial Court from 2007 to 2015.

6.Under such circumstances, this Court is of the view that this is not a fit case for interference under Section 482 CrPC. Hence, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mps

To

1.The XVII Metropolitan Magsitrate,
Saidapet, Chennai

2.Do- Through The Chief Metropolitan Magistrate,
Egmore, Chennai - 8.

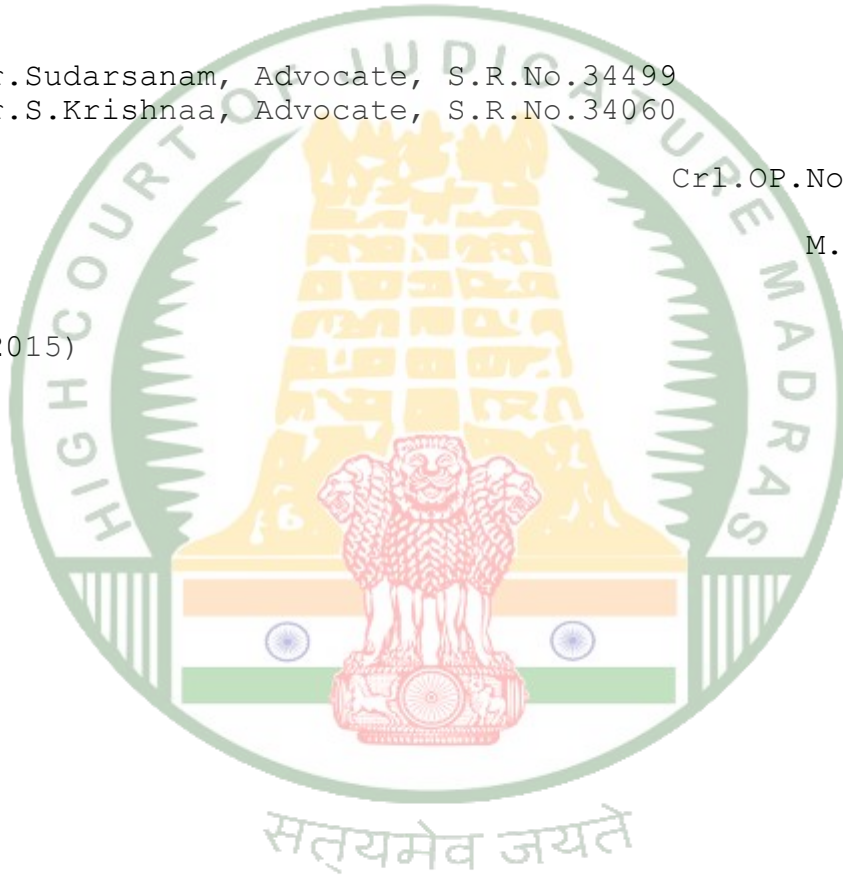
3.The Public Prosecutor,
High Court, Chennai.

+1cc to Mr.Sudarsanam, Advocate, S.R.No.34499

+1cc to Mr.S.Krishnaa, Advocate, S.R.No.34060

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