

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.20212 of 2015

R.Karunasekar

.. Petitioner

Vs

Sriram Steels,
Represented by Proprietor,
Yudhisthirthanany,
No.42 A, Bheemanna Garden Street,
Abiramapuram,
Chennai- 600 018

.. Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to modify the order in C.M.P.No.560/2015 in S.T.C.1 of 2015 on the file of Judicial Magistrate, FTC, Tiruvallur dated 15.06.2015 and direct the respondent/complainant to produce all the documents as prayed for under Section 91 Cr.P.C.

For Petitioner : Mr.S.Swamidoss Manokaran

ORDER

This petition is filed seeking for a direction to modify the order in C.M.P.No.560/2015 in S.T.C.1 of 2015 on the file of Judicial Magistrate, FTC, Tiruvallur dated 15.06.2015 and direct the respondent/complainant to produce all the documents as prayed for in his petition under Section 91 Cr.P.C.

2. Heard Mr.C.Prabakaran, learned counsel appearing for the petitioner and perused the materials available on record.

3. It is seen that the petitioner is an accused and facing trial for the offence under Sections 138 Negotiable Instrument Act in S.T.C.No.1 of 2015. The petitioner has filed an application under Section 91 Cr.P.C. calling for certain records without even giving any explanation as to how those records will be just, necessary and relevant for determining the facts in issue. The respondent/complainant filed counter and submitted that he is willing to produce certain records called for by the petitioner. But that most of the other records are not relevant and genuine for determination of the dispute. The trial Judge after giving opportunity to both sides, by a well considered order, has partly allowed the petition as follows:

"4. Under the facts and circumstances of the case, it is clear from the pleadings of the complainant that he and the accused have been transacting for the period from 22.05.2013 to 27.06.2013. Though the petitioner herein has sought for the above documents for the entire period of 2013 to 2014, the complainant is ready and has already filed the documents relevant to the period of transaction i.e., May 2013 and June 2013 along with his counter before this Court. According to Section 91 Cr.P.C., the Court can call for documents or other things to be produced which are necessary or desirable for the purpose of trial. Hence in the case on hand on perusal of the case records this Court is inclined to direct the complainant to file necessary documents as sought for by the petitioner in SL.No.1 and 3 - of the 6 petition only to the extent of the transaction period i.e. May and June 2013 which is in the opinion of this Court, would be relevant necessary and desirable for the purpose of trial and to prove the case of the defence, further the complainant is directed to produce the document of Tamil Nadu Value Added Tax for May & June 2013. Further the complainant need not produce the documents which are already on record before this Court. If any of the document not available the complainant directed to file an affidavit to that effect."

4. In Debendranath Padi Vs State of Orissa [2003] 2 SCC 711 the provisions of Section 91 Cr.P.C. cannot be used as a means to make a fishing and roving enquiry and that it is the duty of the person calling for the records to explain his relevancy. In this case, the petitioner/accused has not even explained how the documents are relevant.

Under such circumstances, this Court is of the view that the order passed by the trial Court does not suffer from any serious illegality or infirmity. In the result, this petition is devoid of merits and the same stand dismissed. Accordingly, this Criminal Original Petition is dismissed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsm

To

The Judicial Magistrate Court, FTC,
Tiruvallur.

Cr1.OP No.20212 of 2015

KGK(CO)
Eu 04.09.15



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