

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.08.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.20361 of 2015
and MP.No.1 of 2015

A.R.Sampath Petitioner/Accused

Vs

K.Raghupathi Respondent/Complainant

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to set aside the order passed by the learned Judicial Magistrate No.IV, Salem District in Crl.M.P.No.4459 of 2014 in STC.No.199 of 2010 dated 21.07.2015.

For Petitioner : Mr.E.Kannadasan

O R D E R

This petition has been filed to set aside the order in Crl.M.P.No.4459 of 2014 dated 21.07.2015 passed by the learned Judicial Magistrate No.IV, Salem.

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

3. This petitioner is facing a prosecution for an offence under Section 138 of Negotiable Instruments Act. The prosecution was launched as early as in the year 2010 and now after the cross-examination of PW1, the petitioner has filed an application under Section 91 Cr.P.C for a direction to PW1 to produce all records pertaining to the loans allegedly given by PW1 to various persons between 2005 and 2014. That apart, the petitioner has also called for the entire bank statement and accounts of PW1 for the period from 2005 to 2010.

4. Mr.E.Kannadasan, learned counsel appearing for the petitioner submitted that PW1 has admitted in the witness box that that he has documents to show to whom he had given loans and therefore, he should be directed to produce the same.

5. It is seen that this petitioner had issued a cheque to PW1 which had dishonoured, following which, PW1 had issued a statutory notice on 24.12.2009 to this petitioner and this petitioner had not even replied to the said notice. Now, just because PW1 had made certain admission in the cross-examination, this petitioner is

taking advantage of the same and calling upon PW1 to produce documents which are not relevant to the just decision of this case. Even in the petition filed by the petitioner, he has not stated how those documents are relevant for the fact in issue.

6. The Hon'ble Supreme Court in State of Orissa Vs Debendra Nath Padhi [2003] 2 SCC 711 has held that provisions under Section 91 Cr.P.C cannot be invoked for making a robing and efficiency enquiry. This Court finds no infirmity in the impugned order passed by the Trial Court. In the considered opinion of this Court, the petitioner is only protracting the trial further.

In the result, this petition is dismissed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

gya

To
The Judicial Magistrate No.IV, Salem.

+1 cc to M/s. E.Kannadasan, Advocate, sr.42571

CRL.OP.No.20361 of 2015

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