

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.08.2015

DELIVERED ON: 24.08.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.Nos.20723 to 20732 of 2015
and M.P.Nos.1 to 1 of 2015

1. M/s Creasakthi SCM Limited
Rep. by its Directors
A13, Thiru Vi Ka Industrial Estate
Guindy, Chennai 600 032.

2.M.Venkataraman

3.Girija Venkataraman ...Petitioners in all Crl.O.Ps

Vs

Lilaram Kinger & Son
No.213, "A" Block
2nd Floor, Shivalaya Building
134, Commander-in-Chief Road
Egmore, Chennai 600 105.

.. Respondent Crl.O.P.in all Crl.OP's

Criminal Original Petition filed under Section 482 Cr.P.C. to grant stay all further proceedings in C.C.No.1732 of 2012, 5022/12, and 2285/12 (Crl.O.P.Nos.20723/15, 20728/15 and 20732/15) and to direct the learned II Fast Track Metropolitan Magistrate Egmore Chennai to permit the petitioners/Accused to recall and examine the 68 witness and the respondent/complainant listed and to set aside the order passed by the Learned II Fast Track Metropolitan Magistrate Egmore Chennai in M.P.Nos.1263/14, 1260/14, 1265/14, 1262/14, 1256/14, 1261/14, 1259/14, 1258/14 and 1257/14 dated 29.10.2014 (Crl.O.P.Nos.20724 to 20727, 20729 to 20731) on the file of learned II Fast Track Metropolitan Magistrate, Egmore, Chennai, pending disposal of the above Criminal Original Petition.

For Petitioners Mr.P.Munuswamy

C O M M O N O R D E R

For the sake of convenience, the parties will be referred to as the complainant and accused.

2. It is the case of the complainant that the accused borrowed money to a tune of Rs.1 crore and towards repayment of the loan, the accused issued cheques, which when presented were dishonoured for "insufficiency of funds" some time in January 2012. The

complainant issued statutory notice under Section 138 of the Negotiable Instruments Act and since the accused did not repay the amount, the prosecution was launched for the offence under Section 138 of the Negotiable Instruments Act. The complainant examined himself as P.W.1 and filed his proof affidavit on 05.03.2013 and he was not cross examined by the accused. The accused were questioned under Section 313 Cr.P.C. on 24.06.2013. Thereafter, the accused filed applications under Section 311 Cr.P.C. and the accused was permitted to examine at least 3 financiers on his behalf. Again the accused filed application under Section 311 Cr.P.C. to examine 69 persons as defence witnesses on his behalf and the 69th person is named as Lilaram Kinger & Son, which is a juristic person and not a natural person. According to the accused, the examination of these persons is required to show the falsity in the case of the complainant. The trial Court dismissed the applications on 29.10.2014, challenging which the accused is before this Court. It is seen that the accused did not even choose to cross examine P.W.1 and even when the accused were examined under Section 313 Cr.P.C., they did not lay any foundation for their defence. In the considered opinion of this Court, the applications filed by the accused were rightly dismissed by the trial Court on the ground that they have been filed only to vex the prosecution.

3. The Hon'ble Supreme Court in Dr.Rajesh Talwar and another vs. C.B.I. and another [(2013) 4 MLJ (Cr1) 362 (SC)] has held that, criminal Courts are not obliged to accede to the request made by any party to entertain and allow application for additional evidence at their mere asking. In this case the complaint was filed in the year 2012, P.W.1 was examined in the year 2013, the accused did not choose to cross examine and after the accused was examined under Section 313 Cr.P.C., they have come up with these petitions only with the intention of delaying the trial.

In the result, these petitions are devoid of merits and accordingly they are dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

gms

To

1.The II Fast Track Metropolitan Magistrate,
Egmore, Chennai

2.The Public Prosecutor
High Court, Madras.

Cr1.O.P.Nos.20723 to 20732 of 2015

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