

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.08.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.Nos.21182 to 21184 of 2015
and
MP.Nos.1 to 1 of 2015

S.K.HussainPetitioner in all Crl.Ops

Vs

M.Chithirai Pandian ...Respondent in all Crl.Ops

Prayer in Crl.OP.No.21182 of 2015 : Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records pertaining to Crl.M.P.No.5173 of 2015 in CC.No.6395 of 2006 on the file of the learned IV Fast Track Metropolitan Magistrate, George Town, Chennai and set aside the same and consequently permit the petitioner to reopen and reexamine PW1 in the above CC.No.6395 of 2006.

Prayer in Crl.OP.No.21183 of 2015 : Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records pertaining to Crl.M.P.No.5172 of 2015 in CC.No.6396 of 2006 on the file of the learned IV Fast Track Metropolitan Magistrate, George Town, Chennai and set aside the same and consequently permit the petitioner to reopen and reexamine PW1 in the above CC.No.6396 of 2006.

Prayer in Crl.OP.No.21184 of 2015 : Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records pertaining to Crl.M.P.No.5171 of 2015 in CC.No.6397 of 2006 on the file of the learned IV Fast Track Metropolitan Magistrate, George Town, Chennai and set aside the same and consequently permit the petitioner to reopen and reexamine PW1 in the above CC.No.6397 of 2006.

For Petitioner : Dr.P.Vasudevan
in all CrI.OPs

C O M M O N O R D E R

It is seen that this petitioner is facing prosecution for an offence under Section 138 of Negotiable Instruments Act in CC.Nos.6395, 6396 and 6397 of 2006 launched by the respondent herein before the learned Fast Track Judge, George Town, Chennai, since 2006.

2. After issuance of summons, the petitioner/accused appeared before the Trial Court and collected the complaint copies. Thereafter, he was questioned on the accusation and he pleaded not guilty. The complainant was examined in-chief on 11.12.2007 and almost a year later, he was cross-examined by the accused on two dates, namely, 25.06.2008 and 14.10.2008. Thereafter, the complainant side evidence was closed and after hearing the arguments of both sides on 17.07.2009, the Trial Court posted the case for passing judgment.

3. The petitioner/accused did not appear before the Trial Court and therefore, the Trial Court was not able to pass judgment since 2009. The petitioner/accused absconded and non-bailable warrant was issued for securing his presence. He appeared only on 05.03.2015, after six years before the Trial Court and has now filed applications under Section 311 Cr.P.C for once again cross-examining PW1. This application has been dismissed by the Trial Court on 07.07.2015 challenging which, the petitioner/accused has approached this Court in these three petitions.

4. Heard Dr.P.Vasudevan, learned counsel for the petitioner/accused. The learned counsel submitted that the provisions of Section 311 Cr.P.C should be liberally invoked so as to give a fair opportunity to the accused for cross-examining the complainant.

5. This Court has no quarrel with the proposition inasmuch as the provisions of Section 311 Cr.P.C can be invoked at any time before the judgment is passed. At the same time, an order under Section 311 Cr.P.C cannot be passed on the mere asking of a party.

6. In this case, the chief-examination was completed on 11.12.2007 and on two dates namely, 25.06.2008 and 14.10.2008, the petitioner/accused has extensively cross-examined the complainant.

Thereafter, the petitioner absconded and six years later, he appeared before the Trial Court and has now filed this application for once again recalling PW1 for further cross-examination. The request for further cross-examination cannot be granted at the mere asking and there should be sufficient reasons for the Court to exercise its discretionary jurisdiction.

7. In the result, this Court finds no infirmity in the orders passed by the Courts below and accordingly, this petition is devoid of merits and dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

1. The Metropolitan Magistrate,
Fast Track Court IV,
George Town,
Chennai.
2. -Do- Through The Chief Metropolitan Magistrate,
Egmore, Chennai.
3. The Public Prosecutor,
High Court, Madras.

CRL.OP.No.21182 to 21184 of 2015

KSJ (CO)
PSI (08.09.2015)

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