

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2015

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

CrI.O.P.No.21455 of 2015
and M.P.No.1 of 2015

Chitra ... Petitioner/Accused

Vs.

V.S.Vijayakumar ... Respondent/Complainant.

Prayer: Criminal Original Petition filed under Section 482 of the Cr.P.C., praying to set aside the order dated 11.08.2015 made in C.M.P.No.3756 of 2015 in S.T.C.No.143 of 2013 on the file of the Fast Track Judicial Magistrate No.I, Erode and consequently permit the petitioner to examine all the ten defence witnesses by allowing this Criminal Original Petition.

For Petitioner : Mr.C.Munusamy

O R D E R

This Criminal Original Petition has been filed praying to set aside the order dated 11.08.2015 made in C.M.P.No.3756 of 2015 in S.T.C.No.143 of 2013 on the file of the Fast Track Judicial Magistrate No.I, Erode and consequently permit the petitioner to examine all the ten defence witnesses by allowing this Criminal Original Petition.

2. It is seen that this petitioner is accused in S.T.C.No.143 of 2013 under Section 138 of Negotiable Instruments Act, that has been launched by the respondent herein. The petitioner/accused filed a petition in C.M.P.No.3756 of 2015 in S.T.C.No.143 of 2013 under Section 254(2) Cr.P.C. for examining ten witnesses on the side of the defence.

3. The learned Judicial Magistrate, Fast Track Court No.I, Erode, after hearing both sides, partly allowed the petition on 11.08.2015, permitting the petitioner/accused to examine the Inspector of Police, Erode North Police Station and the Manager of Oriental Bank of Commerce as defence witnesses. Challenging the order, the petitioner/accused is before this Court.

4. Heard Mr.Munusamy, the learned counsel for the petitioner/accused.

5. On a careful reading of the order passed by the learned Magistrate, this Court does not find any impropriety or illegality in the said order. Mr.Munusamy, the learned counsel appearing for the petitioner submitted that in order to show that there was no legally enforceable debt, it is essential for the accused to examine his son Asaithambi as a defence witness.

6. This Court is of the view that no prejudice will be caused to anyone, if the petitioner/accused is permitted to examine Asaithambi, his own son, as defence witness. However, the petitioner/accused shall not adopt dilatory tactics for prolonging the trial. Further, if this petition is admitted, it will cause undue prejudice to the complainant and the trial will be further delayed.

7. This Court directs the Trial Court to permit the petitioner/accused to examine his son Asaithambi, as a defence witness within two weeks from the date of receipt of a copy of this order. The order of the Trial Judge, permitting the petitioner to examine the aforesaid two witnesses viz., the Inspector of Police, Erode North Police Station and the Manager of Oriental Bank of Commerce is sustained.

8. With the above direction this Criminal Original Petition is closed. Consequently, connected miscellaneous petition is also closed.

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sd/-
Assistant Registrar (CS-II)

True copy

Sub Assistant Registrar.

To

The Judicial Magistrate No.1,
FTC,Erode.

+ 1 cc to Mr.C.Munusamy, Advocate SR 45468

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