

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.08.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.21491 of 2015
and MP.No.1 of 2015

Rahul K.Jain

... Petitioner

Vs

Jayanthilal

... Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to direct the respondent/complainant to produce [i] Complainant's books of accounts like daily journal book, cash book, ledger book, trial balance, balance sheet and audit report duly certified by qualified auditor for the accounting year 2010-2013 and [ii] Complainant's bank pass book of his banker Indian Overseas Bank, Sowcarpet, Chennai-79 for the period from 01.04.2010 to 31.03.2013 in CC.No.1081 of 2014 pending in the court of FTC-IV, Metropolitan Magistrate, G.T., Chennai-1.

For Petitioner : Mr.Rajendra Prasad Tayal

O R D E R

This petition has been filed to direct the respondent/complainant to produce [i] Complainant's books of accounts like daily journal book, cash book, ledger book, trial balance, balance sheet and audit report duly certified by qualified auditor for the accounting year 2010-2013 and [ii] Complainant's bank pass book of his banker Indian Overseas Bank, Sowcarpet, Chennai-79 for the period from 01.04.2010 to 31.03.2013 in CC.No.1081 of 2014 pending on the file of the learned FTC-IV, Metropolitan Magistrate, G.T., Chennai-1.

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

3. It is seen that the petitioner is facing prosecution for an offence under Section 138 of Negotiable Instruments Act in CC.No.1080, 1081 and 2155 of 2013 before the learned FTC-IV, George Town, Chennai-1.

4. During the course of trial, the petitioner/accused filed an application in CMP.No.4931 of 2015 under Section 91 Cr.P.C calling for several documents including the income tax files of the

complainant, his passbook and bank statement. The Trial Court after hearing both sides has passed a well considered order, wherein, certain relevant documents like the records in CSR.No.55 of 2013 from the Police Station, the letter dated 25.03.2013 issued by the petitioner/accused have been called for and the petition has been dismissed, as regards the other documents.

5. This Court carefully perused the petition filed by the petitioner and the impugned order and finds that there is no infirmity in the order passed by the Trial Court, inasmuch as the Trial Court has given sound reasons for not calling for the production of documents like income tax returns, etc. The Hon'ble Supreme Court in Debendranath Padi Vs State of Orissa [2003] 2 SCC 711 has held that the provisions of Section 91 Cr.P.C cannot be used for making a fishing enquiry.

6. In the result, the order passed by the Trial Court does not suffer from infirmity and the petition stands dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

gya

To
The Metropolitan Magistrate,
FTC-IV
G.T, Chennai -1.

1 cc to Mr. Rajendra Prasad Tayal, Advocate Sr.No.45741

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MP (CO)
PMK.14.9.2015

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