

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18-9-2015

Coram

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.23490 of 2015

M.R. Parthibanraj

...Petitioner

Vs.

R. Kaushik

...Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. with a prayer to direct the Judicial Magistrate No.VI, Coimbatore, to conclude the trial in C.C.No.510 of 2014 within a time frame fixed by this Court.

For Petitioner : Mr.C.D.Sugumar

COMMON ORDER

This Criminal Original Petition is filed by the complainant for a direction to the trial Court to expeditiously conduct trial in C.C.No.510 of 2014.

2. The Complainant initiated prosecution against the accused in C.C.No.510 of 2014 on the file of the Judicial Magistrate No.VI, Coimbatore, for the offence under Section 138 of Negotiable Instruments Act. In the typed set of papers, the complainant/petitioner herein has enforced the adjudication orders, which are as follows:

"30.12.2014.. Complainant Present. Accused Present.
Discharge petition filed.
Copies furnished.
For counter call on 21.1.2015.
21.01.2015.. Counter filed. For enquiry call on
4.2.2015.
04.02.2015.. For enquiry call on 18.2.2015.
18.02.2015.. JM is on leave. Call on 9.3.2015.
09.03.2015.. For enquiry call on 24.3.2015

01.06.2015.. At request for enquiry call on 16.6.2015
16.06.2015.. At request for enquiry call on 23.6.2015
23.06.2015.. At request for enquiry call on 23.7.2015
23.07.2015.. At request for enquiry call on
28.9.2015"

3. It is trait law that prosecution under Section 138 of Negotiable Instruments Act, is either under Chapter XX - Trial of Summons Cases by Magistrates, or under Chapter XXI - Summary Trials. There is no question of the accused filing discharge application under Section 245 of Cr.P.C.

4. The view expressed by the Supreme Court in K.M.Mathew v. State of Kerala ((1992) 1 SCC 217) that an application for recall of summon can be filed in Summons Cases has been held to be bad law in Adalat Prasad v. Rooplal Jindal ((2004) 7 SCC 338). Therefore, the Judicial Magistrate No.VI, Coimbatore, is directed to complete the trial in C.C.No.510 of 2014 expeditiously within a period of three months from the date of receipt of copy of this order.

This Criminal Original Petition is closed with the above direction.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

vr

To

1. The Judicial Magistrate No.VI,
Coimbatore

2. -Do- Through The Chief Judicial Magistrate,
Coimbatore.

1 CC to Mr.C.D.Sugumar, Advocate SR.No. 51108

Cr1.O.P.No.23490 of 2015

AD (CO)

PSI (12.10.2015)