

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 6-10-2015

CORAM:

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

Criminal Original Petition No.23931 of 2015

S. Hariharan

.. Petitioner(Accused)

Vs.

Dr.B.Cheran

.. Respondent(Complainant)

Criminal Original Petition filed under Section 482 of Code of Criminal Procedure with a prayer to set aside the dismissal order passed by the IV Fast Track Court (Metropolitan Magistrate), George Town, Chennai-1 under Section 451 of Cr.P.C. in Crl.M.P.No.6576 of 2015 dated 31.8.2015 in C.C.No.5456 of 2015.

For Petitioner : Mr.J.Ramesh
For Respondent : Mr.C.Emalias,
Addl.Public Prosecutor

Reserved on	Pronounced on
1-10-2015	6-10-2015

O R D E R

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

2. It is the case of the Complainant that the accused borrowed a sum of Rs.14 lakhs and in discharge of the said debt, he issued a cheque dated 15.2.2006 for Rs.9 lakhs in favour of the complainant, which when presented, was dishonoured for insufficiency of funds. The Complainant issued a statutory notice dated 3.3.2006 and on the failure of the accused to return the amount, the Complainant lodged a prosecution in C.C.No.5456 of 2006 before the Metropolitan Magistrate, Fast Track Court-IV, George Town, Chennai, against the accused for offence under Section 138 of the Negotiable Instruments Act.

3. Though the complaint was lodged in the year 2006, the accused managed to pull the trial upto 2015. Ultimately, evidence on behalf of the complainant was adduced and it was closed in July, 2008 and the matter was adjourned to 23.7.2008 for evidence on the side of the accused. From 2008 to 2015 the accused did not examine any witness, and the case was repeatedly getting adjourned for the purpose of arguments. Thereafter the case was further adjourned on the pretext that the complainant and the accused are arriving at an amicable settlement. Since negotiations failed, the matter was adjourned to 7.8.2015 for arguments, and again it was adjourned to 13.8.2015 for arguments, and at that juncture, petitioner filed a petition under Section 311 of Cr.P.C. to examine three persons as defence witnesses.

4. In the petition filed by the accused, he has not even given the reasons as to how the evidence of those three persons are relevant for the just decision of this case. Therefore, the trial Court by a detailed order dated 31.8.2015, has dismissed the petition under section 311 of Cr.P.C., filed by the accused, challenging which the accused is before this Court.

5. Heard Mr.J.Ramesh, learned counsel appearing for the accused, Mr.C.Emalias, learned Additional Public Prosecutor for the State, and perused the records.

6. It is seen that from 2008 to 2015 the accused had been prolonging the trial on some pretext or the other. Ultimately in 2015, the accused has filed the petition under Section 311 of Cr.P.C. to examine three persons as defence witnesses, without even giving proper reasons for the same. Therefore, the trial Court was justified in dismissing the petition under Section 311 of Cr.P.C., filed by the accused.

7. There is no infirmity in the order dated 31.8.2015 made in CrI.M.P.No.6756 of 2015 in C.C.No.5456 of 2015, and consequently, this Criminal Original Petition is dismissed.

सत्यमेव जयते

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

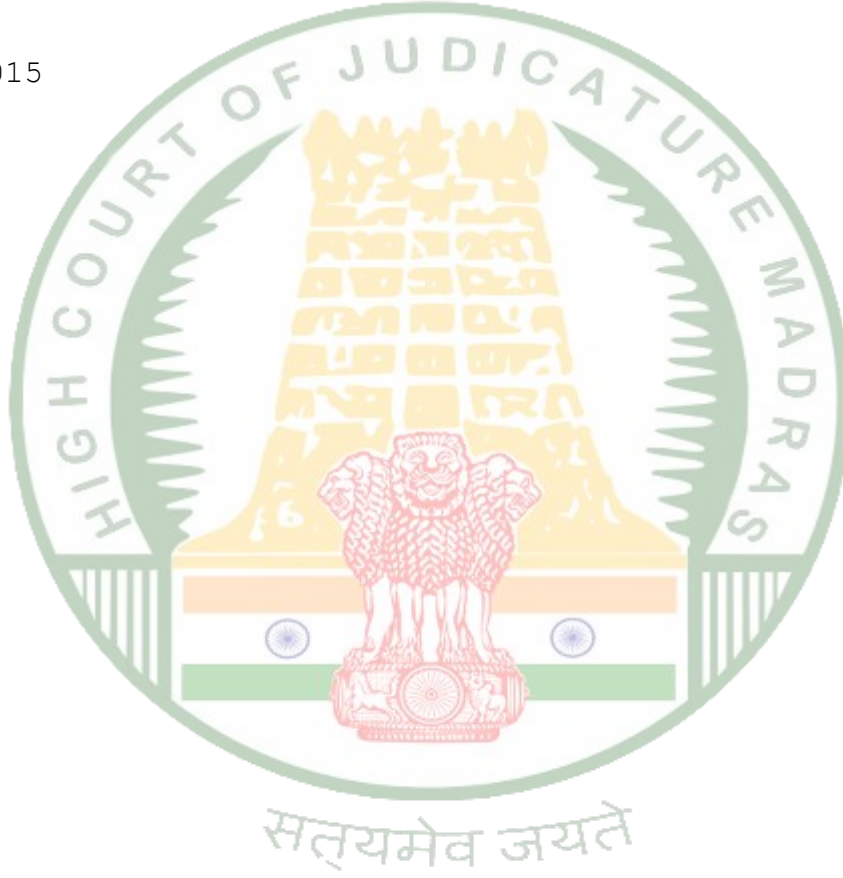
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To

1. The Judge IV Fast Track Court (Metropolitan Magistrate)
George Town, Chennai.
2. The Public Prosecutor, High Court, Madras.

Crl.O.P.No.23931 of 2015

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