

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30-10-2015

CORAM:

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

CrI.O.P.No.23995 of 2015

M.P.No.1 of 2015

K. Sengottaiyan .. Petitioner
Vs.
S.A.Kulandaivel .. Respondent

Prayer: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure with a prayer to set aside the order dated 27.8.2015 passed in C.M.P.No.2800 of 2015 in S.T.C.No.50 of 2015 on the file of the Judicial Magistrate /Fast Track Court, Thiruchengode, Namakkal District.

For Petitioner : Mr.D.Balachandran
For Respondent : Mr.C. Emalias,
Addl. Public Prosecutor,

Reserved on	Pronounced on
27-10-2015	30-10-2015

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.1,50,000/- as hand loan and in discharge of the said loan he issued a cheque dated 31.10.2014 for Rs.1,50,000/-, which when presented, was dishonoured. After issuing statutory notice, the Complainant launched prosecution in S.T.C.No.50 of 2015 before the Judicial Magistrate/Fast Track Court, Tiruchengode, Namakkal District, against the accused under Section 138 of the Negotiable Instruments Act, 1881.

3. The Complainant examined himself as PW-1 and after several adjournments, he was cross-examined by the accused on 23.7.2015. After the evidence of the Complainant was closed, the accused filed a petition in C.M.P.No.2800 of 2015 in S.T.C.No.50 of 2015 under Section 311 of Cr.P.C. to recall the Complainant (PW-1) for the purpose of further cross-examination, which was dismissed by the trial Court on 27.8.2015, challenging which the accused is before this Court.

4. Heard Mr.D.Balachandran, learned Counsel appearing for the accused. Learned Counsel submitted that the accused should be given a fair opportunity to further cross-examine the witness and the trial Court has denied this opportunity by the order impugned herein.

5. This Court carefully perused the petition filed by the accused under Section 311 of Cr.P.C. The reason for recalling PW-1 for further cross-examination has been stated in para 3 of the petition, which reads thus,

"Moreover in the above case the respondent/complainant has examined himself as PW1. The respondent/complainant has been partly cross-examined by the accused counsel and due to some inevitable circumstances the PW1 has not been fully cross-examined. Hence the accused wants to recall the PW1 in order to disprove the alleged offence against the accused."

6. It is the finding of the trial Court that the said reasoning is erroneous, and that the accused has extensively cross-examined PW-1 on 23.7.2015. The accused has not given any cogent reasons for recalling PW-1, apart from asserting that he has only partly cross-examined PW-1. This reasoning given by the accused is found to be false, and therefore this Court does not find any infirmity in the order passed by the trial Court.

In the result, this petition is devoid of merits and consequently the same is dismissed. Connected miscellaneous petition is also dismissed.

सत्यमेव जयते
Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vr

To

1. The Judicial Magistrate,
Fast Track Court,
Thiruchengode,
Namakkal District.

2. -do- Through The Chief Judicial Magistrate,
Namakkal.

+ 1 cc to Mr.D. Balachandran, Advocate Sr.59217

Crl.O.P.No.23995 of 2015

SK(CO)
Eu 5.11.15



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