

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Cr1.O.P.No.25671 of 2015

Raja. Petitioner/Complainant.

Vs

Sampath Kumar,
S/o. Rajagopal,
Thillai nagar,
Keexhbatchapettai,
Harur Post and Taluk,
Dharmapuri District. Respondent/Accused

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the learned Judicial Magistrate, Harur to complete the trial in C.C. NO. 245 of 2013 on his file within a time frame without insisting the petitioner/complainant herein to examine the Branch Manager of the respondent/accused Bank.

For Petitioner : Mr.P.R.Shanmugam,

O R D E R

The present criminal original petition has been filed seeking for a direction to the learned Judicial Magistrate, Harur to complete the trial in respect of C.C.No.245 of 2013 in the time bound manner without insisting the petitioner to examine the Branch Manager of the respondent/accused bank.

2. The petitioner is the complainant, has lodged a private complaint as against the respondent herein under Section 138 of Negotiable Instruments Act before the Judicial Magistrate, Harur and it was taken on file as C.C.No.245 of 2013. During the trial, the petitioner was examined as PW.1 and got marked Exs.P1 P5 and also examined P.W.2 who is the Branch Manager of Federal Bank, Harur, who has spoken about the return of the cheque and thereafter, evidence was closed on his side. The matter stood posted for examination of defence witnesses. While so, the learned Magistrate is now insisting the petitioner to examine the Branch Manager of HDFC Bank, i.e. respondent's bank who issued the cheque.

3. The learned counsel for the petitioner would contend that there is no necessity to examine the Branch Manager of HDFC Bank to prove the guilt of the respondent/accused since admittedly, the cheque issued by the respondent/accused was returned which was elicited by the petitioner through PW.1.

4. For effective adjudication of the case, it is within the exclusive purview of the Judicial Magistrate who is having jurisdiction, as to whom are the witnesses to be examined and what are all the documents to be marked, etc., and this Court cannot give any direction contrary to its view. Only if any case is made out that there is a delay in conducting the trial, this Court can direct to expedite the trial. Therefore, the prayer sought for by the petitioner to direct the learned Magistrate not to insist upon the examination of the witness, which is required by the Court below for effective adjudication of the matter, cannot be granted.

5. Accordingly, this criminal original petition is dismissed.

suk

s/d-

Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

To

The Judicial Magistrate,
Harur.

+ 1 cc to Mr.P.R.Shanmugam, Advocate SR 63727

vs (co)
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