

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-07-2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 954 of 2009

M/s.Amarjothi Spinning Mills Limited
By its Collection Officer and
Power of Attorney
S.Murugaraj ... Petitioner /Complainant

Versus

C.Natarajan M/40 years
S/o.Chinna Karuppasamy
Proprietor of M/s.Manoj Impex
Near Lings Garments
Debedrar Thottam
Bharathi Nagar
Ammapalayam
Tiruppur. ... Respondent /Accused

Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. against the order passed by the learned Judicial Magistrate-I, Tiruppur, in S.T.C.No. 1491 of 2007, dated 24.07.2009.

For Petitioner : Mr.N.Arun Kumar

ORDER

The case of the petitioner/complainant is that the respondent/accused in the course of the business transaction had issued a cheque for Rs.3,99,600/- to discharge his liability. When the cheque was presented for collection by the complainant, it got dishonoured with an endorsement "insufficient funds". Hence, he has filed a private complaint against the respondent for the alleged offences under Sections 138 and 142 of Negotiable Instruments Act and it was pending trial before the learned Judicial Magistrate No.I, Tiruppur, in S.T.C.No.1491 of 2007. On 24.07.2009, when the matter was called neither the complainant was present nor he has taken steps to serve summons on the respondent and hence the private complaint filed under Section 204(4) of Cr.P.C. was dismissed and the respondent was acquitted. Aggrieved against the same, this Criminal Revision Case is filed.

2.Mr.N.Arun Kumar, learned counsel appearing for the petitioner/complainant would submit that the Trial Court has dismissed the private complaint, without giving an opportunity to the petitioner/complainant. He would further submit that actually, the

complainant has paid batta, but, the address given by him is incorrect.

3. On a careful perusal of the order of the Trial Court, it is very clear that the Trial Court in its order has clearly pointed out that even though, the case is pending before the Trial Court from 2007, for 2 years & 3 months, the petitioner/complainant has not taken proper steps to serve the summons on the accused. Further more, when the matter was taken up before the Trial Court on 24.07.2009, the complainant was absent and hence, the private complaint filed under Section 204(4) Cr.P.C. was dismissed, for non-payment of batta to the correct address for the service of summons on the accused.

4. At this juncture, it is relevant to refer to Section 204 (4) of Cr.P.C., which reads as under:-]

"204. Issue of process

(1) ..

(2) ..

(3) ..

(4) When by any law for the time being in force any process-fees or other fees are payable, no process shall be issued until the fees are paid and, if such fees are not paid within a reasonable time, the Magistrate may dismiss the complaint. .."

A reading of the above provision makes it clear that if the process fee is not paid within a reasonable time, the Magistrate is vested with power to dismiss the complaint. Here is a case, even though, it is pending before the Trial Court from 2007, for 2 years & 3 months, the petitioner/complainant has not taken proper steps to serve the summons on the accused. Apart from that, it is seen that the complainant has not paid the process fee to the correct address for the service of summons on the accused and therefore, as per Section 204(4) Cr.P.C., the Trial Court has rightly dismissed the private complaint.

5. Here again the conduct of the party has to be taken note of. The revision has been filed in the year 2009. The revision was admitted on 14.10.2009 and the petitioner/complainant was permitted to take private notice. Thereafter, the petitioner has not taken private notice. Further, the petitioner has not chosen to pay the batta. Thereafter, the case was posted in 2013 and the matter was referred to Lak Adalat. There also, the parties did not appear and hence, the matter was again posted before the regular Court. In 2015, when the matter was taken on 11.06.2015, there was no representation for the petitioner and the proof of service is not filed. Hence, the matter was adjourned by two weeks. Again, the matter was called on 25.06.2015 and thereafter on 02.07.2015, and lastly today, but, till date, nothing fruitful had happened and the petitioner/complainant has not paid batta and he has not taken proper steps to serve the notice on the respondent. This shows that the petitioner is not interested in pursuing the matter further. In my considered opinion, the Lower Court has rightly dismissed the private complaint and hence, I do not find any reason to interfere with the

reasoned order of the Lower Court. This Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

paa

To

1.The Judicial Magistrate-I,
Tiruppur.

2.The Chief Judicial Magistrate, Coimbatore.

Crl.R.C. No. 954 of 2009

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pmk.4.8.2015



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