

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2015

CORAM:

THE HON'BLE Mr.JUSTICE R.SUBBIAH

Cr1.O.P.No.29634 of 2015
and M.P.No.1 of 2015

A.Ashokkumar

... Petitioner

Vs.

E.R.Sakthivel

Represented by his Power
of Attorney Agent

P.Mohanraj

... Respondent

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to call for the entire records relating to the C.M.P.No.3734 of 2015 in S.T.C.No.10 of 2015 on the file of the Fast Track Court/ Judicial Magistrate, Tiruchengode, Namakkal District and set aside the same.

For Petitioner : Mr.C.Prakasam

ORDER

This petition is filed praying to call for the entire records relating to the C.M.P.No.3734 of 2015 in S.T.C.No.10 of 2015 on the file of the Fast Track Court/ Judicial Magistrate, Tiruchengode, Namakkal District and set aside the same.

2. In the petition, it has been stated that the petitioner is an accused in S.T.C.No.10 of 2015 on the file of the Fast Track Court / Judicial Magistrate, Tiruchengode, Namakkal District in the private complaint filed by the respondent herein under Section 138 of Negotiable Instrument Act. The said private complaint was filed by the respondent through his Power Agent. But the said Power Agent has not filed any Power of Attorney and not marked the Power of Attorney as one of the document on the side of the respondent. But after trial was over and on the date of judgment, the respondent herein filed a petition under Section 311 Cr.P.C for marking the said Power of Attorney Deed. The trial Court allowed the said petition on condition that the respondent should pay Rs.400/- as cost on or before 04.11.2015. The said order has been passed on 03.11.2015. The trial Court cannot allow such petition filed under Section 311 Cr.P.C on the date of judgment and nothing prevented the respondent to mark the same at the time of trial. Hence, the petitioner has come forward with the present petition.

3. I have heard the learned counsel appearing for the petitioner.

4. I find that absolutely there is no merit in the prayer made by the petitioner. There is no bar, preventing the complainant to file a petition under Section 311 Cr.P.C on the date of judgment. It is for the concerned Magistrate to decide whether the said petition can be allowed or not. So far as the present case is concerned, the learned Magistrate has allowed the said petition by executing his judicial discretion. Therefore, I am not inclined to interfere with the said order.

5. Hence, this Criminal Original Petition is dismissed. However, the petitioner is at liberty to make all his submissions before the trial court. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

srn

To

1. The Judicial Magistrate/Fast Track Court,
Tiruchengode, Namakkal District.

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

+ 1 cc to Mr.C. Prakasam, Advocate R.67653

CrI.O.P.No.29634 of 2015
and
M.P.No.1 of 2015

KK(CO)
EU 7.1.16