

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.04.2015

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP.No.3596 of 2015
and MP.Nos.1 and 2 of 2015

V.Sadasivam ... Petitioner

Vs

1.Metro Silk and Sarees
rep.by its Partner M.J.Betty

2.M.J.Betty,
Partner of Metro Silk and Sarees,
Nos.1 and 2, JN Angamaly,
Ernakulam District,
Kerala-683 572. ... Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the order dated 26.11.2014 passed in CRP No.13 of 2014 on the file of the learned III Additional District -cum- Sessions Judge, Salem, confirming the order dated 03.02.2014 passed in CMP No.5699 of 2013 in STC No.49 of 2007 on the file of the learned Judicial Magistrate No.V, Salem.

For Petitioner :Mr.P.Sathish

ORDER

The petitioner is the complainant before trial Court for offence under Section 138 of the Negotiable Instruments Act, and cognizance was taken on file by the learned Judicial Magistrate No.V, Salem, in STC No.49 of 2007. After the evidence was recorded, the petitioner has filed an application under Section 311 CrPC to examine a new witness, which was dismissed by the trial Court by order dated 03.02.2014 in CrlMP.No.5699 of 2013 in STC.No.49 of 2007. Aggrieved by the order passed by the trial Court, the petitioner/complainant has approached the Sessions Court to invoke its revisional jurisdiction in CRP.No.13 of 2014. The Sessions Court dismissed the revision on 26.11.2014 and confirmed the order passed by the trial Court. Aggrieved by the order passed by the Court below, the petitioner has filed this petition under Section 482 CrPC to set aside the order filed under Section 397 CrPC.

2.In the considered opinion of this Court, since the revisional jurisdiction is concurrent to the High Court and the Sessions Court under Section 397(3) CrPC, if the party elects to go to Sessions Court, he cannot come by way of a second revision to the High Court. Section 397(3) CrPC precludes the petitioner from approaching the High Court under the revisional jurisdiction. In exceptional cases, the petitioner can file petition under Section 482 CrPC, when there is a patent miscarriage of justice. In this case, this Court does not find any serious infirmity in the orders passed by the Courts below, warranting interference under Section 482 CrPC.

In these circumstances, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Deputy Registrar (Judicial)

/true copy/

Sub Asst. Registrar

mps

To

1.The III Additional District -cum- Sessions Judge,
Salem.

2.The Judicial Magistrate No.V, Salem.

3.The Public Prosecutor,
High Court, Madras.

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