

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2015

CORAM

THE HON'BLE MR. JUSTICE R.S.RAMANATHAN

Crl.O.P.No. 3598 of 2015
and
M.P.No.1 of 2015

G.Karthikeyan
Proprietor of
Sri Balaji Wealth Management ...Petitioner/Petitioner/Accused

vs

M.Kotteeswaran ...Respondent/Respondent/Complainant

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to set aside the order, dated 22.12.2014, passed in C.M.P.No.8278 of 2014, in S.T.C.No.221 of 2011, on the file of the Judicial Magistrate, Fast Track Court, No.II, Erode.

For Petitioner : Mr.R.Ezhilarasan

O R D E R

This Criminal Original Petition is filed to set aside the order, dated 22.12.2014, passed in C.M.P.No.8278 of 2014, in S.T.C.No.221 of 2011, on the file of Judicial Magistrate, Fast Track Court No.II, Erode/Trial Court.

2 The respondent filed a case against the petitioner in S.T.C.No.221 of 2011, under Section 138 of Negotiable Instruments Act, 1881. In that case, the petitioner filed C.M.P.No.8278 of 2014, for issuance of summons to four persons, for the purpose of examining them as Court witnesses. As the said Petition was dismissed by the Trial Court, by order, dated 22.12.2014, the present Criminal Original Petition is filed to set aside the said order, as stated above.

3. It is submitted by the learned counsel appearing for the petitioner that the respondent herein, who filed S.T.C.No.221 of 2011 against the petitioner, committed forgery by obtaining signed cheques of the petitioner and instigated the complainant in S.T.C.No.446 of 2013, to file case against the petitioner, and to substantiate the same, witnesses mentioned in C.M.P.No.8278 of 2014, have to be

examined as Court witness, as they will not depose in favour of the petitioner.

4. According to me, the Trial Court has rightly dismissed the C.M.P.No.8278 of 2014, as no case has been made out by the petitioner for examining witnesses mentioned therein as Court witnesses. If the petitioner wants to summon the persons named in the Petition filed by him to be examined as witnesses, it is open to the petitioner to pray for issuance of summons to them and if such witnesses appear and give evidence against the interest of the petitioner, it is open to the petitioner to seek permission of the Court below to treat those witnesses as hostile by moving appropriate application and if any such application is being moved by the petitioner, the learned Magistrate shall consider the same and pass orders. Hence, I do not find any infirmity in the order passed by the Trial Court.

5. In the result, the Criminal Original Petition is dismissed. Consequently, connected M.P. is closed.

s/d-
Assistant Registrar(V)

True Copy

Sub-Assistant Registrar

To

1. The Judicial Magistrate,
Fast Track Court, No.II, Erode.
2. -do- thro' The Chief Judicial Magistrate,
Erode District, Erode.

+ 1 cc to Mr.R.Ezhilarasan, Advocate SR 12460

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