

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. 3599 of 2015

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

vs.

M/s.P.K.Systems
rep. by its Proprietor
R.Krishnakumar ...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.8258 of 2014, in S.T.C.No.446 of 2013, 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.8258 of 2014, in S.T.C.No.446 of 2013, on the file of the Judicial Magistrate, Fast Track Court, No.II, Erode.

2 The respondent filed a case against the petitioner in S.T.C.No.446 of 2013, under Section 138 of Negotiable Instruments Act, 1881. In that case, the petitioner filed C.M.P.No.8258 of 2014, for issuance of summons to one Mr.Kotteeswaran, who has filed complaint against the petitioner in S.T.C.No.221 of 2011, for the purpose of examining him as Court witness. 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.446 of 2013 against the petitioner, committed forgery by obtaining signed cheques of the petitioner and instigated the complainant in S.T.C.No.221 of 2011, to file case against the petitioner and to substantiate the same, witness mentioned in C.M.P.No.8258 of 2014, has to be examined as Court witness, as he will not depose in favour of the petitioner.

4. According to me, the Trial Court has rightly dismissed the C.M.P.No.8258 of 2014, as no case has been made out by the petitioner for examining witness mentioned therein as Court witness. If the petitioner wants to summon the person named in the Petition to be examined as witness, it is open to the petitioner to pray for issuance of summon to him and if he appears and give evidence against the interest of the petitioner, it is open to the petitioner to seek permission of the Court below to treat the witness 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.

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