IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2015

CORAM

THE HONOURABLE MR. JUSTICE R.S.RAMANATHAN

Crl.O.P.No.4034 of 2015

S.M. Satheesh Kamal ...Petitioner

vs.

C. Sivakumar ..Respondent

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to set aside the order dated 18.12.2014 made in C.M.P.No.3033 of 2014 in S.T.C.No.402 of 2012 on the file of the Judicial Magistrate/Fast Track Court No.I, Erode.

For Petitioner : Mr.M. Guruprasad

O R D E R

This petition is filed by the complainant in S.T.C.No.402 of 2012 on the file of the Judicial Magistrate I, Erode to set aside the order passed in C.M.P.No.3033 of 2004 in S.T.C.No.402 of 2012.

2.Heard the learned counsel for the petitioner.

3. Learned counsel for the petitioner submitted that before the trial court, the petitioner was examined as PW1 and thereafter the petitioner filed petition under Section 311 of Cr.P.C., to recall him and to mark pan card and the said petition was dismissed. Aggrieved by the same, the present petition is filed. It is submitted by the learned counsel for the petitioner that in the petition filed for recalling the petitioner, it has been stated in clear terms that some important facts regarding the source of income and transaction were omitted to be asked in chief examination and in cross examination, the source of income of the petitioner was questioned and to prove that the petitioner is an income tax assessee, Pan Card of the petitioner has to be produced. Hence for the purpose of production of Pan Card, the petitioner herein has C.M.P.No.3033 of 2014 to recall him for further evidence. The learned trial Judge, without appreciating the above fact, dismissed the said petition.

4. I have gone through the deposition of PW1, who was examined on 14.6.2013 and further cross examined on 4.4.2014. In his cross

examination, he admitted that he has no knowledge about his salary and he cannot be considered as a Bank Employee. It is seen from his cross examination that the petitioner was working in a Bank and the accused came to the Bank for the purpose of availing loan and in that manner the petitioner had dealings with the accused. In the petition filed to recall the petitioner for further evidence, it has been stated that to prove his financial status, Pan Card has to be marked.

5. It is a well known fact that production of Pan Card will not lead to a conclusion that the person possessing Pan Card is an income tax assessee and in fact, it is only used for identification. Therefore, this Court is of the view that production of Pan Card will not throw any light on the financial status of the petitioner. Further, as rightly appreciated by the court below, the purpose of filing petition to recall the petitioner for further examination is to fill up the lacunas in his prosecution. Hence, I do not find any reason to interfere in the order passed by the learned trial Judge. The petition is dismissed. Consequently, the connected M.P.No.1 of 2015 is closed.

msr

-s/d-
Assistant Registrar(Ad-I)
Dt:31/3/2015

True Copy

Sub-Assistant Registrar

To

The Judicial Magistrate/
Fast Track Court No.1,
Erode.

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