

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2015

CORAM

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

Crl.O.P.No.5677 of 2015

and

M.P.No.1 of 2015

Jeevarathinam
W/o.Asaithambi

... Petitioner/Petitioner/Accused

vs.

Varadharajan
S/o.Duraisamy

... Respondent/Respondent/Complainant

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to direct the learned Judicial Magistrate II, Salem, to take on file the application filed under section 210 Cr.P.C. in unnumbered CMP No..../2009 in C.C.No.441 of 2006 within the stipulated period.

For Petitioner : Mr.R.Nalliyappan

O R D E R

The petitioner is an accused in C.C.No.441 of 2006 on the file of learned Judicial Magistrate II, Salem. The respondent filed the above case under section 138 of the Negotiable Instruments Act and in that the petitioner filed an application purported to be under section 210 Cr.P.C. stating that she has given a complaint to the Inspector General of Police, Central Crime Branch, in D.9861/2007 dated 08.05.2007 and the complaint is under investigation and therefore, till the investigation is over on the complaint given by the petitioner, the proceedings in C.C.No.441 of 2006 has to be stayed. That petition was filed in the year 2009 and till date, it was not numbered and therefore, the present application is filed seeking for a direction to direct the learned Judicial Magistrate II, Salem, to number the application filed by the petitioner under section 210 Cr.P.C. in the year 2009.

2. It is submitted by the learned counsel for the petitioner that in the complaint given by the petitioner to the Inspector General of Police, Central Crime Branch, he has clearly stated how the cheque and other documents were forged and therefore, if the proceedings in C.C.No.441 of 2006 is allowed to stand, she will be prejudiced.

3. I am unable to accept the contention of the learned counsel for the petitioner. It is seen from the typed set of papers that there was an earlier attempt by the petitioner to set aside the order passed in C.M.P.No.4561 of 2013 in C.C.No.441 of 2006 by filing Crl.O.P.No.29367 of 2013 and that petition was dismissed by this Court by order dated 09.12.2014 and a direction was given to the learned Judicial Magistrate II, Salem, to dispose of the case within a period of six months from the date of receipt of a copy of that order. C.M.P.No.4561 of 2013 was filed by the respondent/complainant under section 311 Cr.P.C. to mark more documents and that was allowed and aggrieved by the same, Crl.O.P.No.29367 of 2013 was filed by the petitioner. As the petitioner was not able to get a favourable order, the present petition is filed seeking for a direction to number the petition filed by the petitioner in the year 2009.

4. Admittedly, on the basis of the complaint given by the petitioner in the year 2007, no case has been registered against the respondent. Section 210 Cr.P.C. will apply only when a criminal case has been registered in respect of the same offence and in that event, the private complaint can be stayed. As no criminal case has been registered on the complaint given by the petitioner, the petitioner is not entitled to invoke the provision of Section 210 Cr.P.C. Further, in my opinion, this petition is only a ruse to delay the proceedings and the petition has been filed in respect of the application filed in the year 2009. Hence, I do not find any merit in this petition.

This Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed. The learned Judicial Magistrate II, Salem, is directed to comply with the order passed by this Court in Crl.O.P.No.29367 of 2013 dated 09.12.2014 and complete the trial within the period stipulated therein.

Sd/-

Assistant Registrar

//True Copy//

gm

Sub Assistant Registrar

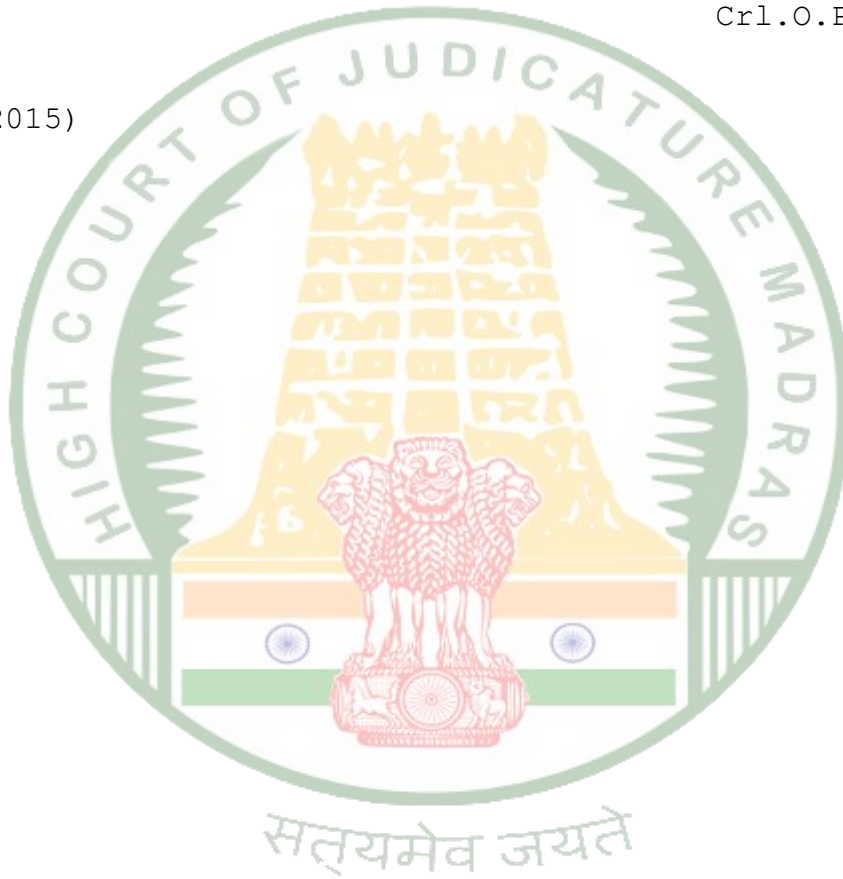
To

1. The Judicial Magistrate II,
Salem.
2. Do Through The Chief Judicial Magistrate,
Salem.

+2cc's to Mr.R.Nalliyappan, Advocate, S.R.No.13455 to 13457

Cr1.O.P.No.5677 of 2015

PA (CO)
CA(18/03/2015)



WEB COPY