

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2015

CORAM

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

CrI.O.P.No.6412 of 2015 &
M.P.No.1 of 2015

Imran Sheriff

...Petitioner

vs.

S.Saravanan

...Respondent

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to set aside the order, dated 17.02.2015, passed in C.M.P.No.3589 of 2014, in S.T.C.No.466 of 2012, on the file of Judicial Magistrate, Fast Track Court No.I, Erode (Magisterial Level -I) .

For Petitioner : Mr.S.Kaithamalai Kumaran

ORDER

This Petition is filed to set aside the order, dated 17.02.2015, passed in C.M.P.No.3589 of 2014, in S.T.C.No.466 of 2012, on the file of Judicial Magistrate, Fast Track Court No.I, Erode (Magisterial Level -I).

2. The petitioner herein is the accused in S.T.C.No.466 of 2012. The respondent filed the said case against the petitioner, stating that the petitioner borrowed a sum of Rs.3,00,000/- on 22.05.2012 and issued post dated cheque on 22.06.2012 for the said amount. When the cheque was presented for collection, it was dishonoured. Therefore, after serving statutory notice on the petitioner, the complaint was filed against him. The respondent was examined as P.W.1, and after the examination of P.W.1, the petitioner filed a Petition under Section 91 of Cr.P.C. viz., C.M.P.No.3589 of 2014, for summoning the statement of accounts from the date of opening the SB Account No.10244, by the respondent in Canara Bank, Raj Nivas, No.207, Cauvery Road, Karungalpalayam. As the said Petition was dismissed by the Trial Court, by order, dated 17.02.2015, the present Criminal Original Petition is filed to set aside the said order, as stated above.

3. The learned counsel appearing for the petitioner has submitted that to prove that the respondent has no financial resources to pay Rs.3,00,000/- to the petitioner, the respondent's statement of accounts maintained with the Canara Bank was sought for, and that would help the petitioner to prove that the respondent had no means to advance Rs.3,00,000/- to the petitioner, but, without appreciating the said aspect, the Trial Court dismissed C.M.P.No.3589 of 2014. Hence, the learned counsel prayed for allowing this Petition.

4. I am unable to accept the contentions of the learned counsel for the petitioner.

5. In the cross-examination, the respondent has stated that he has not withdrawn any amount from any Bank. Therefore, when the respondent has admitted in cross-examination that he has not withdrawn any amount from the Bank, no useful purpose would be achieved by summoning the Bank accounts of the respondent, and this aspect was rightly considered by the Trial Court. Hence, I do not find any reason to interfere with the order passed by the Trial Court.

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

sd

-s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

The Judicial Magistrate, Fast Track Court No.I, Erode.
(Magisterial Level -I).

+ 1 cc to MrS.Kaithamalai Kumaran, Advocate SR 14855

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Cr1.O.P.No.6412 of 2015