

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.04.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP.No.9006 of 2015
and M.P.No.1 of 2015

1.M/s.K.S.V.Cotton Mills
rep. By its Managing Director,
S.Kathirvelu,
Kujiliyamparai,
Vedasanthur Post,
Dindigul.

2.S.Kathirvelu,
Managing Director,
M/s.K.S.V.Cotton Mills,
Kujiliyamparai,
Vedasanthur Post,
Dindigul. Petitioners

Vs

K.Ganesan Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order dated 26.08.2014 in CrlRC No.4 of 2013 on the file of the learned Principal Sessions Judge, Namakkal in CMP.No.1724 of 2012 in STC.No.315 of 2012 on the file of the learned Judicial Magistrate, Tiruchengode, Namakkal, dated 3.12.2012.

For Petitioners :Mr.C.Prakasam
For Respondent :Mr.C.Emalias
Additional Public Prosecutor

ORDER

This petition has been filed to set aside the order dated 26.08.2014 in CrlRC No.4 of 2013 on the file of the learned Principal Sessions Judge, Namakkal.

2. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the respondent and perused the material placed on record.

3. For the sake of convenience the party would be referred to as the complainant and the accused. The accused are the petitioners before this Court. The complainant launched a prosecution under Section 138 of the Negotiable Instruments Act, 1881, in STC No.315 of 2012 before the learned Judicial Magistrate (FTC), Tiruchengode. During the course of trial, the accused filed an application under Section 45 of the Evidence Act, in CrI.MP.No.1724 of 2012 in STC No.315 of 2012 to examine the impugned cheque and to get opinion from an Expert. The said application was dismissed by the trial Court on 03.12.2012. Aggrieved by the order passed by the trial Court, the accused approached the Sessions Court under Section 397 CrPC in CrI.RC.No.4 of 2013, which was also dismissed by the Sessions Court on 26.08.2014. Therefore, this petition is filed under Section 482 CrPC.

4. In the considered opinion of this Court, since the revisional jurisdiction is concurrent to the High Court and the Sessions Court under Section 397(3) CrPC, if the party elects to go to Sessions Court, he cannot come by way second revision to the High Court to entertain under Section 482 CrPC against an order passed under the revisional jurisdiction by the Sessions Court. There should be extraordinary circumstances which are absent in the present case. The accused cannot seek to achieve through the back door, what is prohibited by the front door. Hence, this petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

mps

-s/d-
Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

To

1. The Principal Sessions Judge,
Namakkal.
2. The Judicial Magistrate,
Tiruchengode.
3. -do- thro' The Chief Judicial Magistrate,
Namakkal.
4. The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.C.Prakasam, Advocate SR 20470

vgi(co)
prk24/4

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