IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP Nos.9772 & 9773 of 2015
and
M.P.No.1 of 2015
in
Crl.O.P.No.9772 of 2015

P.Senthil Kumar ...Petitioner/Respondent/Complainant in both Crl.O.Ps

Vs

T.N.Narayanasamy ...Respondent/Respondent/Accused in both Crl.O.Ps

Prayer in Crl.O.P.No.9772 of 2015:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in order dated 03.03.2015 passed in C.M.P.No.144 of 2015 in S.T.C.No.898 of 2009, on the file of the learned Judicial Magistrate No.1, Tirupur and set aside the same.

Prayer in Crl.O.P.No.9773 of 2015:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in order dated 03.03.2015 passed in C.M.P.No.145 of 2015 in S.T.C.No.898 of 2009, on the file of the learned Judicial Magistrate No.1, Tirupur and set aside the same.

For Petitioner in both Crl.O.Ps	:	Mr.Krishna Prasad
For Respondent in both Crl.O.Ps	:	Mr.C.Emalias, Additional Public Prosecutor

ORDER

Seeking to quash the order passed by the learned Judicial Magistrate No.1, Tirupur in C.M.P.Nos.144 & 145 of 2015 respectively in S.T.C.No.898 of 2009 dated 03.03.2015, the petitioner has come up with these petitions.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent police.

3.The defacto complainant is the petitioner before this Court. The petitioner/defacto complainant launched prosecution under Section 138 of the Negotiable Instruments Act, way back in the year 2009 against the respondent herein. During the pendency of the trial, the respondent/accused filed C.M.P.Nos.1565 & 1566 of 2014 for re-opening the case and for production of certain documents. The said prayers were dis-allowed by the trial Court on 08.01.2015 with the following caveat:-

> "Further the sales tax returns are the public documents. The accused can very well summon the concerned department to produce the sales tax return of the complaint firm."

4.During the pendency of C.M.P.Nos.1565 & 1566 of 2014, the respondent/accused has filed the present miscellaneous petitions in C.M.P.Nos.144 & 145 of 2015 before the trial Court seeking for summoning certain documents from the Commercial Tax Officer and to examine him as a defence witness. The trial Court allowed C.M.P.Nos.144 & 145 of 2015 by order dated 03.03.2015. Seeking to quash the said order in C.M.P.Nos.144 & 145 of 2015, the petitioner/defacto complainant has come up with these Criminal Original Petitions.

5.On a reading of the order passed by the trial Court, this Court does not find any serious infirmity therein. After all the accused/respondent has to discharge the burden caused on him under Section 139 of the Negotiable Instruments Act. At the same time, the respondent/accused cannot take advantage of this and protract the trial.

6.Therefore, it will be in the interest of justice, these Criminal Original Petitions are closed with a direction to the trial Court to complete the trial in S.T.C.No.898 of 2009, within a period of three months from the date of receipt of a copy of this order. In the mean time, if the respondent/accused does not take proper steps for summoning the Commercial Tax Officer and to produce documents concerned, then, the trial Court shall proceed with the next stage. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

jbm

To

1. The Judicial Magistrate No.1,
Tirupur.

2.The Public Prosecutor,
High Court, Madras.

1 CC to M/s. Sarvabhauman Associates, Advocate SR.No. 21138

Crl.OP Nos.9772 & 9773 of 2015

PUR (CO)
PSI (27.04.2015)