

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2015

CORAM:

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

Crl.O.P.No.16586 of 2009
and
M.P.Nos.1 & 2 of 2009

M/s.A.Rangaraju
Represented by its Proprietor Ayilraju
10, Krishna Road,
Erode. ... Petitioner

Vs.

M/s.The Gobichettipalayam Agricultural
Producers Co-operative Marketing Society No.544,
36, Modachur Road,
Gobichettipalayam - 636 416. ... Respondent

Prayer : Criminal Original Petition has been filed to call for the records in respect of the order passed by the Principal Sessions Judge, Erode dated 29.06.2009 in CRP 55 of 2008 by confirming the order of C.M.P.No.3248 of 2007 in C.C.No.677 of 2004 on the file of Judicial Magistrate No.II, Erode and set-aside the same and allow the above criminal original petition.

For Petitioner : Mr.R.Nalliyappan

ORDER

The accused in C.C.No.677 of 2004 on the file of the Judicial Magistrate No.II, Erode is the petitioner herein and he filed an application under Section 91 Cr.P.C in C.M.P.No.3248 of 2007 for production of 10 documents by the respondent/ complainant and that petition was partly allowed by the learned Judicial Magistrate No.II, Erode and the learned Judicial Magistrate No.II directed that document Nos.2, 3, 4, 9 and 10 were to be produced by the respondent/complainant and dismissed the petition in respect of the document Nos. 1, 5, 6, 7 and 8. Aggrieved by the same, the petitioner filed criminal revision petition No.55 of 2008 on the file of the Principal Sessions Judge, Erode and the learned

Principal Sessions Judge also confirmed the order of learned Judicial Magistrate No.II, Erode. Aggrieved by the same, the petitioner has filed this criminal original petition.

2. It is submitted by the learned counsel for the petitioner that the petitioner denied the entire transactions alleged to have been made by the petitioner and the petitioner never participated in the tender process and he never purchased turmeric during the relevant period i.e. 2001 to 2004. To substantiate the same, the petitioner called for the tender applications said to have been submitted by him for the accounting years 2000-2001, 2001-2002, 2002-2003 and 2003-2004; Delivery Sheet issued to the petitioner said to have been supplied by the respondent for the accounting years 2000-2001, 2001-2002, 2002-2003 and 2003-2004; Bank Cheque collection challan book for the year 2003-2004 and 2004-2005 and remittance particulars of the petitioner to the complainant for the accounting years 2000-2001, 2001-2002, 2002-2003 and 2003-2004 as these documents were crucial to prove the case of the petitioner, but, without appreciating the same, the trial Court dismissed the application in respect of these documents viz., 1, 5 to 8 which were sought to be sent for from the complainant. He further submitted that the aforesaid documents would prove that there was no supply made to the petitioner during the relevant time by the complainant and therefore, opportunity must be given to the petitioner to substantiate his case by directing the respondent to produce the aforesaid documents.

3. I am not inclined to accept the contention of the learned counsel for the petitioner. It is seen from the complaint that in paragraph - 5, it has been stated that the accused purchased turmeric through the complainant in the auction sale and the accused was liable to pay a sum of Rs.23,07,882/- to the complainant and the complainant was maintaining true and proper accounts in respect of the purchases made by the accused. Therefore, the complainant had made it clear that he had the true accounts to prove the transactions and therefore, when the transaction is disputed by the petitioner, the complainant has to prove the same by producing the documents.

4. Further, it is stated in paragraph - 6 that the accused/petitioner herein issued three cheques for various amounts on various dates and thereafter, he paid a sum of Rs.1,00,000/- by cash on 25.02.2004, Rs.50,000/- on 01.03.2004, another Rs.50,000/- on 03.03.2004, Rs.40,000/- on 17.03.2004 and another sum of Rs.50,000/- on 12.03.2004. Thereafter, a letter was sent by the

respondent/complainant dated 20.03.2004 to the petitioner/accused to pay the entire amount and on receipt of the letter, the accused / petitioner herein sent a letter dated 22.03.2004 requesting the complainant not to present the cheques and on 30.03.2004, he sent another request not to present the cheques and for verification of the accounts, on 03.04.2004, he sent another sum of Rs.50,000/- by way of demand draft along with a letter and on 07.04.2004, the complainant requested the petitioner to verify the accounts during the office hours on working day and on 27.04.2004, the petitioner/accused paid a sum of Rs.2,00,000/- by way of demand draft along with letter and thus, totally, a sum of Rs.5,40,000/- was paid after issuance of the cheques. These subsequent payments would make it clear that the petitioner did not dispute the claim made by respondent/complainant and he only sought for time for repayment and even after the complainant directed the petitioner to come and verify the accounts, that was utilised and the accused sent a sum of Rs.2,00,000/-. Therefore, from the conduct of the petitioner/accused, in making various payments, after issuance of cheques, would prove the transaction and only for the purpose of dragging on the matter, he filed an application under Section 91 Cr.P.C for production of various documents and the learned Trial Judge partly allowed the application and directed the respondent/complainant to produce document Nos. 2, 3, 4, 9 and 10, out of which, production of document No.2, namely, the Sales Bills said to have been issued by the Respondent to the petitioner for his alleged purchase in the Accounting years 2000 to 2004 and also, document No.3, namely, the turmeric Tender Register of the Respondent in the Accounting years 2000 to 2004 would prove that whether turmeric were supplied to the petitioner by the respondent and whether the petitioner participated in the tender or not. Hence, I do not find any defect in the order of the Trial Court which was confirmed by the learned Principal Sessions Judge. Hence, the criminal original petition is dismissed directing the Trial Court to dispose of the matter within a period of two months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

sms

To

1.The Principal Sessions Judge,
Erode.

2.The Judicial Magistrate No.II,
Erode.

1 cc to Mr.R.Nalliyappan, Advocate, Sr. 28742

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