

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.S.RAMANATHAN

Crl.O.P. No.25058 of 2010
and
M.P.No.1 of 2010

D.Sathyamurthy ... Petitioner
vs.

G.Rajendran ... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to set aside the Order dated 25.08.2010 in C.M.P.No.3841 of 2010 in C.C.No.273 of 2008 on the file of the Judicial Magistrate, Kangeyam.

For Petitioner : Mr.R.Rajarajan

O R D E R

This petition is filed by the petitioner challenging the order passed in Crl.M.P.No.3841 of 2010 in C.C.No.273 of 2008 on the file of the Judicial Magistrate, Kangeyam.

2. The respondent filed a private complaint in C.C.No.273 of 2008 under section 138 of the Negotiable Instruments Act and after the prosecution evidence was over and when the case was posted for defence witness, the petitioner/accused filed Crl.M.P.No.3841 of 2010 under section 91 Cr.P.C., directing the respondent/complainant to produce certain documents and that petition was dismissed by the learned Judicial Magistrate, Kangeyam. Aggrieved by the same, this petition is filed.

3. It is submitted by the learned counsel for the petitioner that the purpose of a petition filing under section 91 Cr.P.C., is to summon documents to prove the case of the parties and according to the petitioner, no amount was payable by the petitioner to the respondent/complainant and the respondent/complaint also had no means to advance the amount to the petitioner and cheque was given as security and to prove all those things, documents were sought for and without appreciating the same, the learned Judicial Magistrate dismissed the petition.

4. I am unable to accept the contention of the learned counsel for the petitioner. It is seen from the complaint copy that the

petitioner received a sum of Rs.12 lakhs and issued a post-dated cheque dated 3.6.2008. It is also stated in the petition filed under section 91 Cr.P.C. that the respondent/complainant was a financier and after lending money, the respondent/complainant demanded meter interest on daily basis and obtained blank cheque as security and to expose these things, documents were sought to be produced by the respondent. In that petition, the petitioner sought for production of income tax return from the period of 2003 to 2010 and SARAL copy from the period of 2003 to 2010 and balance sheet from the year 2003 to 2010, bank accounts statement from the period of 2003 to 2010 of complainant account in Canara Bank, Vellakoil Branch, 40 Real Estate Documents without giving any details about those documents, Chitta and Adangal in the name of the complainant and documents relating to sale of garment machinery and power loom machinery in 200 numbers.

5. Admittedly, the prosecution evidence was over and the case was posted for examination of defence witness and no particulars were given by the petitioner regarding the nature of cross-examination of the respondent. Further, no reason has been stated for production of those documents and even according to the petitioner, the cheque was given as security and in that case, it was for the petitioner to prove the same and there was no necessity for the respondent/complainant to produce all those documents. Hence, the trial Court rightly appreciated the same and dismissed the petition filed under section 91 Cr.P.C.,. I do not find any illegality or infirmity in the order of the trial Court. Hence, the present petition is dismissed. The connected Miscellaneous Petition is closed.

asvm

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Judicial Magistrate,
Kangeyam.

+ 1 cc to Mr.R.Rajarajan, Advocate SR 27168

br (co)
prk

CRL.O.P. No.25058 of 2010
and
M.P.No.1 of 2010