



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.01.2015

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THE HON'BLE MR.JUSTICE C.T.SELVAM

CRL.O.P. (MD)No.20488 of 2014

and

M.P(MD)No.1 of 2014

K.Jayaraj

.. Petitioner

.. Vs ..

S.Chidambaram

.. Respondent

Criminal Original Petition filed under section 482 of the Code of Criminal Procedure, praying to call for the records relating to the order, dated 10.09.2014 passed in Cr.M.P.No.2762 of 2014 in S.T.C.No.362 of 2012 on the file of the learned Judicial Magistrate(Fast Track Court) No.2, Madurai.

For Petitioner : Mr.T.K.Gopalan

For respondent : Mr.N.S.Karthikeyan

ORDER

This petition has been filed under Section 482 Cr.P.C., praying to call for the records relating to the order, dated 10.09.2014 passed in Cr.M.P.No.2762 of 2014 in S.T.C.No.362 of 2012 on the file of the learned Judicial Magistrate(Fast Track Court) No.II, Madurai.

2. This Criminal Original Petition arises against the order permitting the petition under Section 311 Cr.P.C. The petitioner is the accused in the case pending trial in S.T.C.No.362 of 2012 on the file of the learned Judicial Magistrate(Fast Track Court) No.II, Madurai. The complainant moved Cr.M.P.No.2762 of 2014 seeking a direction for calling the Manager of the bank as a witness towards marking the relevant account statement. The case is one informing an offence under Section 138 of Negotiable Instruments Act and on the allowance of the petition under Section 311 Cr.P.C., the petitioner/accused has preferred this petition.

2. Heard the learned counsel for the petitioner and the learned Government Advocate(Crl. Side) and perused the materials available on record.

3. It is the submission of the learned counsel for the petitioner that on an earlier instance upon the application moved under Section 91 Cr.P.C, the bank account statement was obtained and thereon the respondent/complainant was cross-examined. It was his specific answer in cross-examination that the cheque which has given rise to the case does not find reflection in the account statement. Thereafter, after examination of the witnesses was completed and the case was posted for argument, the complainant moved a petition under Section 311 Cr.P.C, which came to be allowed. Despite the petitioner informing the Court below about the pendency of this petition, the Court below has proceeded



to examine the Manager and through him account statement reflecting the transaction regards the cheque has been marked.

4. The learned counsel for the respondent/complainant submits that the account statement obtained through the application under Section 91 Cr.P.C was regards savings bank account of the respondent/complainant. The cheque in question had been issued on an account pertaining to over draft facility held by the complainant and hence, the said account statement was marked through the Manager of the bank.

5. Considering the rival submissions, this Court would dismiss the present Criminal Original Petition with the observation that it is for the trial Court to consider the merits of the rival cases on the basis of the evidence on record and arrive at a conclusion thereon. Since the case is of the year 2007, there shall be a direction to dispose of the case in S.T.C.No.362 of 2012 within a period of one month from the date of receipt of a copy of this order.

6. As the learned counsel for the petitioner submits that the petitioner is yet to cross-examine the Manager of the bank, who has been examined in chief pursuant to the petition under Section 311 Cr.P.C., it is open to the petitioner to do so even on the immediate following hearing date. However, if there is any protraction, the same may be viewed seriously by the Court below. Further, direction of this Court to complete the proceedings within a period of one month from the date of receipt of a copy of this order shall be followed scrupulously. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

pm

To

The Judicial Magistrate(Fast Track Court) No.2,
Madurai.

+1cc to Mr.N.S.KARTHIKEYAN, ADVOCATE SR NO.2063

+1CC TO MR.T.K.GOPALAN, ADVOCATE SR NO.2094

CRL.O.P. (MD) No.20488 of 2014
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