

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.06.2016

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.O.P.No.11596 of 2016
and Crl.M.P.No.5892 of 2016

M.S. Raju,
Proprietor- Sumanth Art Productions,
E-1, Halls Mark Apts,
68, Halls Road, Kilpauk,
Chennai-10.

Petitioner

Vs.

Durga

Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., to call for records in M.P.No.616 of 2016 in C.C.No.2926 of 1999 order dated 21.04.2016 pending on the file of the FTC-III, Saidapet, Chennai and set aside the same.

For petitioner : Mr.S.Venkatesan

O R D E R

This Criminal Original Petition is filed seeking to set aside the order dated 21.04.2016 passed in M.P.No.616 of 2016 in C.C.No.2926 of 1999, pending on the file of the Fast Track Court-III, Saidapet, Chennai.

2. Heard the learned counsel for the petitioner and perused the materials placed on record.

3. For the sake of convenience, the petitioner and the respondent will be referred to as accused and complainant, respectively.

4. It is the case of the complainant that the accused had borrowed Rs.3,10,000/- and had issued a cheque, which, when presented, was dishonoured and after issuance of statutory notice, the complainant lodged a complaint before the XVII Metropolitan Magistrate Court, Saidapet, Chennai in C.C.No.2926 of 1999 against the accused for offence under Section 138 of the Negotiable Instruments Act, 1881 [for brevity "the Act"].

5. From 1999 to till date, the matter has been prolonged for some reason or the other, albeit the Act says that trial should be completed within a period of six months.

6. Be that as it may, the accused filed an application in M.P.No.616 of 2016 in C.C.No.2926 of 1999, contending that trial should be continued by the Judge and evidence should be recorded, as laid down under Section 326[3] of the Cr.P.C., which came to be dismissed by the Trial Court on 21.04.2016, challenging which, the accused is before this Court.

7. The learned counsel for the accused placed strong reliance on an unreported judgment dated 01.09.2011 of the Supreme Court in Nitinbhai Saevatilal Shah and another Vs. Manubhai Manjibhai Panchal and another.

8. In the considered opinion of this Court, the impugned order does not suffer from any serious infirmity, inasmuch as even at the commencement of the case, the complaint was numbered not as "summary trial", but, as "summons case" and it was numbered as "Calendar Case" and not as "Summary Trial Case". From 2009 to till date, the accused participated in the trial and did not raise any serious objection, when several Presiding Officers would have come and gone. Therefore, this Court does not find any illegality in the order impugned.

9. In the result, this Criminal Original Petition is dismissed and the Trial Court is directed to proceed with the case and dispose of the same within a period of one month from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.
gya

s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

1.The Fast Track Judge-III,
Saidapet, Chennai

2.The Public Prosecutor,
High Court, Madras.

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