

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.06.2016

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.12825 of 2016
and CRL.M.P.No.6642 of 2016

Selvakumaran

.. Petitioner

Vs

Radhakrishnan

.. Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the impugned order passed in Criminal Revision Petition No.13/2015 by the learned Sessions Judge, Thiruvannamalai dated 17.03.2016 and subsequently direct the learned Judicial Magistrate No.II, Thiruvannamalai to send for documents namely cheque leaves bearing cheque Nos.337151 to 337175 from the State Bank of India, Kallakurichi Branch, Villupuram District & Cash-book and day book maintained by the petitioner in Primary Health Centers at Kadaladi and Valathi, Thiruvannamalai District.

For Petitioner : No appearance

O R D E R

This petition has been filed to set aside the order dated 17.03.2016 passed by the learned Sessions Judge, Thiruvannamalai in Criminal Revision Petition No.13 of 2015 and to direct the learned Judicial Magistrate No.II, Thiruvannamalai to send for documents namely, cheque leaves bearing cheque Nos.337151 to 337175 from the State Bank of India, Kallakurichi Branch, Villupuram District and cash-book and day book maintained by the petitioner in Primary Health Centers at Kadaladi and Valathi, Thiruvannamalai District.

2. On account of boycott of Courts, there is no representation on the side of the petitioner. However, in Harish Uppal [Ex.Capt.] Vs Union of India reported in [2003] 2 SCC 45, the Hon'ble Supreme Court has held that boycott of Courts is illegal and therefore, this Court went through the records and passed orders.

3. For the sake of convenience, the parties will be referred to by their name. Radhakrishnan has initiated prosecution against Selvakumaran in S.T.C.No.965 of 2013 before the learned Judicial Magistrate-II, Tiruvannamalai for offences under Section 138 of Negotiable Instruments Act. From 2013, the case has been kept pending and Selvakumaran has not cross-examined Radhakrishnan. Selvakumaran filed CrI.M.P.No.6538 of 2014 under Section 91 Cr.P.C. to call for certain records from a Primary Health Centre and from a Bank in Kallakurichi, which containing the signatures and handwriting of Selvakumaran and for sending the same to the expert for comparison under Section 45 of the Indian Evidence Act. The learned Magistrate heard both sides and by a well considered order, dismissed CrI.M.P.No.6538 of 2014 on 28.04.2015. Thereafter, Selvakumaran filed Criminal Revision Petition No.13 of 2015 before the Sessions Court, Tiruvannamalai, which was dismissed on 17.03.2016 by a detailed order. Challenging the orders passed by the Courts below, Selvakumaran is before this Court under Section 482 Cr.P.C.

4. Under Section 397[3] Cr.P.C., if a person invokes the revisional jurisdiction of the Sessions Court, is precluded from filing a second revision before the High Court. However, a petition under Section 482 Cr.P.C. is maintainable, in extraordinary circumstances when it is shown that the orders passed by the Courts below are fishy illegal.

5. In this case, the prayer for send for documents namely, cheque leaves, cash book and day book maintained by Selvakumaran, have no relevance at all and he has been postponing the cross-examination of Radhakrishnan, on some pretext or other from 2014 onwards and thus, he has delayed the trial. Both the Courts below have gone into the facts of the case and held that the documents called for are not relevant.

6. In Debendranath Padi Vs State of Orissa - [2003] 2 SCC 711, the Hon'ble Supreme Court has held that power under Section 91 Cr.P.C. should not be used for making a fishy enquiry. This Court does not find any infirmity in the orders passed by the Courts below warranting interference under Section 482 Cr.P.C. and this petition stands dismissed. Consequently, connected Miscellaneous Petition is closed.
gya

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

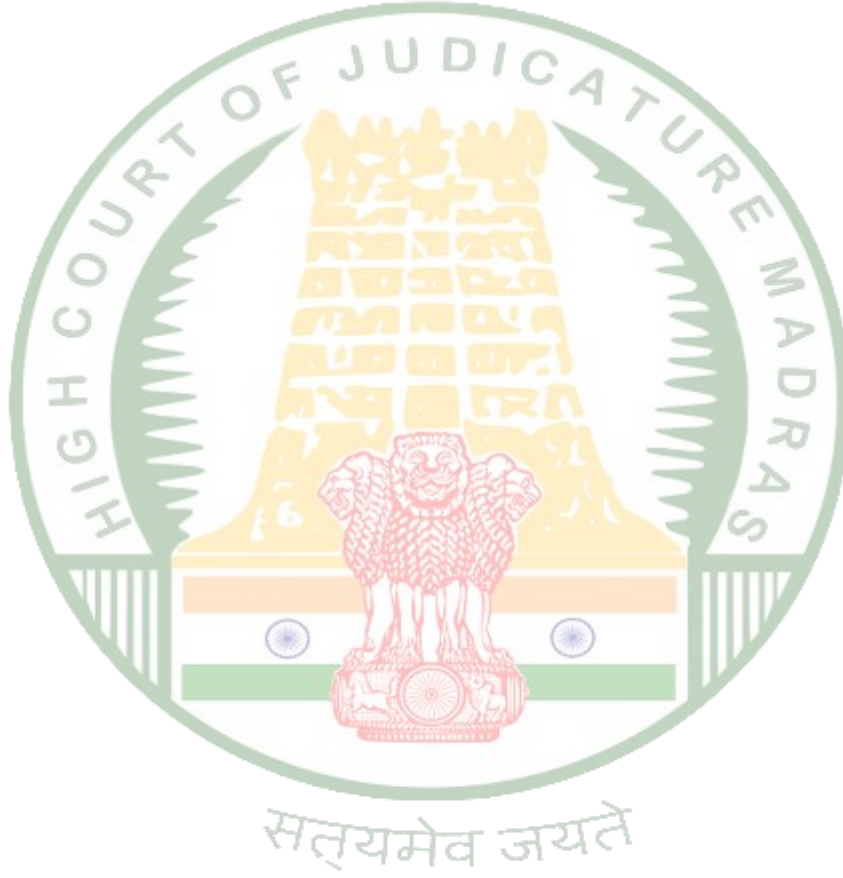
To

1.The Sessions Judge,
Thiruvannamalai.

2.The Judicial Magistrate No.II,
Thiruvannamalai.

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CRL.O.P.No.12825 of 2016



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