

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.02.2016

CORAM:

THE HONOURABLE MS.JUSTICE R.MALA

Cr1.O.P.No.16617 of 2015

And

M.P.No.1 of 2015

S.Mahadevan

... Petitioner

Vs.

K.Shanmugam

... Respondent

Prayer :

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to call for the records pertaining to the C.M.P.No.2826 of 2015 in S.T.C.No.425 of 2014 on 22.06.2015 on the file of the Fast Track Court, Magisterial Level, Ambattur and set aside the same.

For Petitioner : Mr.M.V.Muralidaran

For Respondent : Mr.R.Karunakaran

ORDER

The petitioner has come forward with this petition challenging the impugned order passed in C.M.P.No.2826 of 2015 in S.T.C.No.425 of 2014 dated 22.06.2015 on the file of the learned Fast Track Court, Magisterial Level, Ambattur wherein, the petition filed under Section 311 of Cr.P.C. to re-open and recall the P.W.1 for marking certain document came to be dismissed.

2.Heard the submissions made by the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

3.The learned counsel appearing for the petitioner would submit that the petitioner is the accused in S.T.C.No.425 of 2014 for the offence punishable under Section 138 of the Negotiable Instruments Act. He would further submit that when the matter was posted for argument, the petitioner filed petition to recall the P.W.1 and it was dismissed. He would further submit that the petitioner wants to mark F.I.R., which was registered against the P.W.1, but that factum was not considered by the learned Trial Court. Hence, he prayed for

setting aside the order passed in C.M.P.No.2826 of 2015 in S.T.C.No.425 of 2014 dated 22.06.2015.

4.Resisting the same, the learned counsel appearing for the respondent would submit that F.I.R. is not necessary to prove the defence of the case. It is a public document. It can be marked through accused itself and that aspect has been correctly considered by the learned Trial Court and prayed for dismissal of the petition.

5.Considering the rival submissions and on perusal of typed set of papers, it is admitted that the petitioner is an accused facing criminal case for the offence punishable under Section 138 of the Negotiable Instruments Act. In that it was stated that both side evidence was over. When the matter was posted for judgment, on 27.05.2015, one day before that the present petition has been filed and for that he has not stated for what reason he wants to mark the F.I.R. because F.I.R. is registered in the year 2009 itself.

6.In such circumstances, this Court is of the view that the learned Trial Court has considered the same in proper prospective and dismissed the petition. So, I do not find any reason to interfere with the order passed by the learned Fast Track Court, Magisterial Level, Ambattur in C.M.P.No.2826 of 2015 in S.T.C.No.425 of 2014 dated 22.06.2015.

7.Hence, this Criminal Original Petition is dismissed as devoid of merits. However, the learned Fast Track Court, Magisterial Level, Ambattur is directed to dispose of the S.T.C.No.425 of 2014 within a period of one month from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is also closed.

pri

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

1. The learned Fast Track Court,  
Magisterial Level, Ambattur

2. The Public Prosecutor  
High Court, Madras.

+ 1 cc to Mr.M.V.Muralidaran, Advocate, SR 12995

+ 1 cc to Mr.R.Karunakaran, Advocate, SR 12833

kji(co)

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