

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP No.14587 of 2016

Deerajkumar

..Petitioner

Vs

Sri Guruvayurappan Investments
rep by its Power Agent Mr.N.Sivadoss
No.10 & 11, Umpherson St.,
Maimoon Mansion
2nd Floor, Chennai 600 108. .. Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order passed on 22.03.2016 in Crl.M.P.No.6689 of 2015 by the learned Metropolitan Magistrate Fast Track IV, George Town, Chennai.

For Petitioner : Mr.S.N.Arun Kumar

O R D E R

This petition has been filed to set aside the order passed on 22.03.2016 in Crl.M.P.No.6689 of 2015 by the learned Metropolitan Magistrate Fast Track IV, George Town, Chennai.

2. For the sake of convenience, the petitioner and the respondent are referred to as accused and complainant respectively.

3.The complainant initiated prosecution against the accused before the Fast Track Court-4, George Town, Chennai in C.C.No.720 of 2014 for an offence under Section 138 of the Negotiable Instruments Act. After the complainant was examined-in-chief, the accused cross examined the complainant in part. During the cross examination of the complainant, he was questioned as to whether he can produce the documents relating to the constitution of Sri Guruvayurappan Investments, the complainant firm, for which the complainant has stated in the affirmative. Thereafter, the accused has stopped the cross examination and has filed Crl.M.P.No.6689 of 2015 under Section 91 Cr.P.C. calling upon the complainant to produce:

- (1) Constitution of Sri Guruvayurappan Investments;
- (2) The Income tax returns and the audited balance sheet.
- (3) The general power of attorney that has been given to

one Sivadas on behalf of Sri Guruvayurappan Investments.

Learned trial Judge after hearing both sides had dismissed CrI.M.P.No.6689 of 2015 on 22.03.2016, challenging which the accused is before this Court.

4. Heard the learned counsel for the petitioner.

5. On a reading of the impugned order it is clear that the trial Court has given sound reasons for rejecting the prayer of the accused. As regards the constitution of Sri Guruvayurappan Investments, the trial Court has given a finding that it is the proprietorship concern and therefore, there cannot be any documents to show its constitution. As regards the Income tax returns and balance sheet, the accused himself has not stated the relevancy of those documents in his petition under Section 91 Cr.P.C. As regards the power of attorney, the trial Court has found that the original power of attorney has been filed by the complainant in C.C.No.2237 of 2011 on the file of the VII Metropolitan Magistrate and therefore, the certified copy has been taken on file.

6. This Court does not find any serious infirmity in the order passed by the Court below. The Supreme Court in State of Orissa vs. Debendra Nath Padi [2004 AIR SCW 6813], the Supreme Court has clearly stated that Section 91 Cr.P.C. cannot be used for making a fishy enquiry. In this case, the accused has not made out a case for production of the said documents and therefore, the order of the trial Court does not suffer from any serious infirmity. Accordingly, this petition is dismissed.

Sd/-

Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To
1.Metropolitan Magistrate Fast Track IV,
George Town, Chennai.

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