

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.06.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

CrI.R.C.No.124 of 2016
and CMP.No.870 of 2016

V.Arulselvam .. Petitioner/ Petitioner/ Accused

Vs.

V.Ezhilvannan ... Respondent/ Respondent/ Complainant

Prayer :-Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C. to set aside the order dated 21.12.2015 made in CMP.No.4594 of 2015 in STC.No.150 of 2014 on the file of learned Judicial Magistrate (Fast Track Court) Ambattur.

For Petitioner : M/s.S.Sridevi.

For Respondent : No appearance.

ORDER

The criminal revision petition is directed against the order passed by the learned Judicial Magistrate (Fast Track Court) Ambattur in CMP.No.4594 of 2015 in STC.No.150 of 2014 dated 21.12.2015.

2.Heard the learned counsel for the petitioner. There is no representation on behalf of the respondent.

3.The complaint is filed under Section 138 of Negotiable Instruments Act, before the Judicial Magistrate (Fast Track Court) Ambattur. During pendency of trial, the accused filed petition in CMP.No.4594 of 2015 under Section 315 Cr.PC to examine the Senior Manager, State Bank of India, Ambattur Industrial Estate Branch, Chennai and Accused himself to examine as defence side witnesses. The trial Court dismissed the petition partly and allowed the accused to examine himself as defence side evidence and dismissed the relief of examining the Senior Manager, State Bank of India, Ambattur. Admittedly, the accused examined Manager, State Bank of India, Ambattur as PW2. PW2 in his deposition clearly stated that the Ex.P1/Cheque was returned with an endorsement no such account and Ex.B2/return memo dated 02.04.2013 was issued. PW2 in his deposition stated

that the cheque was issued by the State Bank of India prior to the year 2000 and the cheque contains the details of old account number, it is not easy to trace out the new account number and the said account was not operated from 29.08.2005 onwards, the said account has become dormant account due to its in-operation. The cheque was returned with an endorsement no such account, the customers account numbers have been changed twice with new account numbers between the year 2000 to 2013, only with the new account number the bank can give actual balance available in the customer's account.

4.The learned counsel for the petitioner contended that there is no clarity in the evidence of PW2 in the Bank account and return of cheque, therefore, the Senior Manager, State Bank of India, Ambattur has to be necessarily examined to prove the case of the accused. Hence, the accused may be permitted to examine the Senior Manager, State Bank of India, Ambattur on the side of defence witness. The reading of deposition of PW2 is not clear as to whether the accused is having bank account or dormant account. Hence, it is just necessary to give opportunity to the accused/revision petitioner to clarify the above said facts by examining the Senior Manager, State Bank of India, Ambattur as defence side witness.

5.In view of the above stated facts and circumstances, this court is inclined to set aside the order passed by the learned Judicial Magistrate (Fast Track Court) Ambattur.

6.In the result, the criminal revision petition is allowed, by setting aside the order of the learned Judicial Magistrate (Fast Track Court) Ambattur made in CMP.No.4594 of 2015 in STC.No.150 of 2014 dated 21.12.2015. The petitioner is permitted to examine the Senior Manager, State Bank of India, Ambattur Industrial Estate Branch, Chennai as defence side witnesses. Considering the pendency of the case, this Court directs the trial Court to dispose of the main case preferably within a period of two months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is also closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

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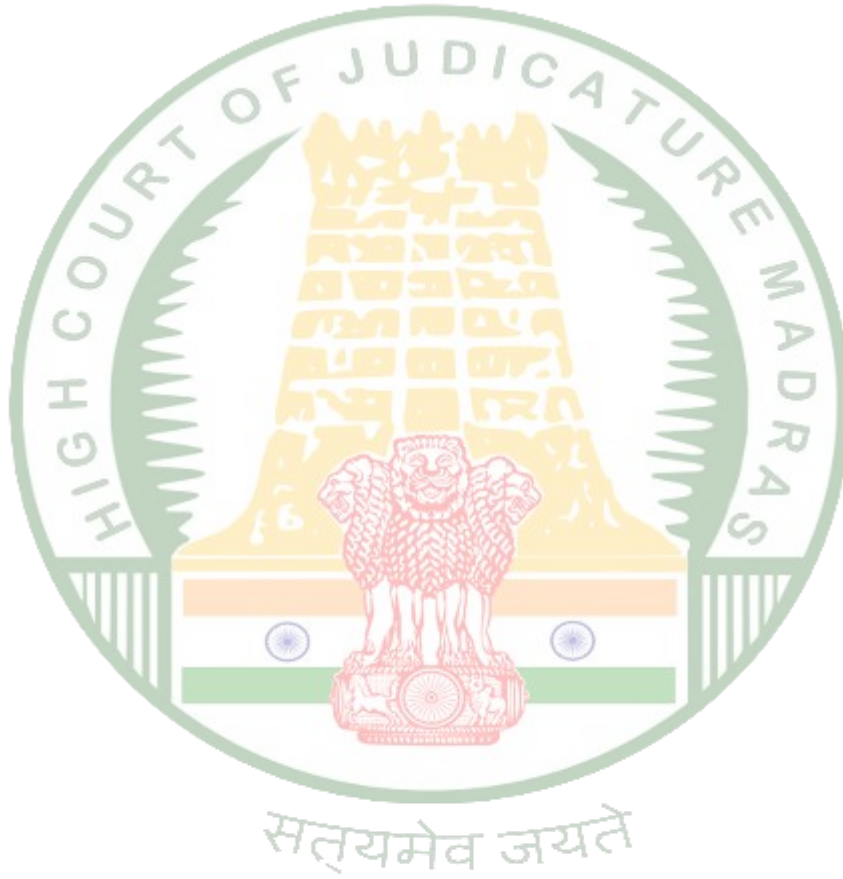
To

1. The Judicial Magistrate (Fast Track Court)
Ambattur

1 cc to M/s. S. Sridevi, Advocate, Sr. 34058

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