

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.09.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Crl.R.C.No.940 of 2010

K.Arul

.. Petitioner/Complainant

Vs.

1. M/s.Sri Saravanna Plastics
now having its office at
Adaikalapuram,
Veppankadu Post,
Meignanapuram Via,
Tuticorin District.

2. S.Udaya Kumar,
By its Proprietor and authorized signatory,
Sri Saravanna Plastics.
now having its office at
Adaikalapuram,
Veppankadu Post,
Meignanapuram Via,
Tuticorin District.

.. Respondents/Accused 1 and 2

Prayer :- Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C., to set aside the order dated 23.10.2009 made in S.T.C.No.1270 of 2006 on the file of the learned Judicial Magistrate No.1, Namakkal, by allowing this criminal revision.

For Petitioner : Mr.A.V.Arun
For Respondents : Notice served.
No Appearance
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ORDER

This criminal revision case is directed against the order dated 23.10.2009 passed by the learned Judicial Magistrate No.I, Namakkal, in S.T.C.No.1270 of 2006, dismissing the private complaints preferred by the revision petitioner under Section 204(3) of Cr.P.C.

2. The learned counsel for the petitioner would mainly contend that the trial Court, without considering the weight of evidence and all probabilities of the case, erroneously dismissed the private complaints for mere absence of the accused. It is further contended that the learned Magistrate, ought to have seen that it is not a case of complainant not taking steps to secure the presence of the accused but a case of accused absconding and evading process. In view of the above, the order of the trial Court has to be set aside and the criminal revision case has to be allowed.

3. Even though notice was served on the respondents, they have not chosen to appear either in person or through counsel.

4. This Court has considered the submissions made by the learned counsel for the petitioner and perused the records.

5. On a perusal of the order of the trial Court, it is seen that the trial Court, jointly tried the cases in S.T.C.Nos.1270, 1229 and 956 of 2006, C.C.Nos.114, 101, 90, 86 and 527 of 2006, C.C.No.197 of 2005 and C.C.No.40 of 2006. The trial Court perused the above said ten cases and heard the arguments on the side of the petitioner therein/complainant and dismissed the cases on the ground that the petitioner has not followed the procedure under Section 204(3) of Cr.P.C. Since the trial Court wanted to terminate the proceedings, dismissed the petition under Section 204(3) of Cr.P.C. Except that, there was no reason mentioned in the order of the trial Court to dismiss the petition. Further, all the ten cases are relating to cheque cases. Except that, there is no other connection or similarity and further, there is no other material available to pass a common order in the above said ten cases. The trial Court, erroneously, clubbed all

the ten cases and heard the arguments of the counsels, who were present on the above said ten cases and passed common order without perusing the stage of the each cases. The trial Court has not followed the procedure laid down in the Code of Criminal Procedure or Criminal Rules of Practice and without any basis, clubbed all the ten cases which are different type and erroneously passed a common order, which is bad in law and therefore, the said order is liable to be set aside.

6. In the result, this Criminal Revision Case is allowed and the order passed by the learned Judicial Magistrate No.I, Namakkal, in S.T.C.No.1270 of 2006, on 23.10.2009, is set aside and the matter is remitted back to the trial Court for disposal according to law. The learned Judicial Magistrate No.I, Namakkal, is directed to take the case immediately on file and dispose the same according to law.

16.09.2016

Internet : Yes
Jrl

To

The Judicial Magistrate No.1,
Namakkal.

G.CHOCKALINGAM, J.

Jrl

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