

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED **17.08.2016**

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP.Nos.18231 to 18236 of 2016
and
Crl.MP.Nos.8651, 8652 & 8653 of 2016

1.M/s.Sai Krishna Engineering Pvt.Ltd.,
By its Managing Director,
Mr.M.Madhavan
Office at No.18, Self Help Industrial Estate,
Keelattalai, Chennai - 600 177.

2. M.Madavan
S/o. Vivekandhan,
Managing Director of said Krishna
Engineering Pvt., Ltd., Office at No.18,
Self Help Industrial Estate,
Keelkattalai, Chennai - 600 177.

3. M.Hemalatha,
W/o. M.Madhavan,
Director of said Krishna,
Engineering Pvt., Ltd., Office at No.18,
Self Help Industrial Estate,
Keelkattalai, Chennai - 600 177. ...

Petitioners in all
Crl.OPs.

Vs

M/s Deccan Engineers, A partnership firm,
Rep.by its Managing Partner
Mr.F.Mohammed Anees, S/o.Lt.S.Fazludeedn,
Office at No.5/121, C2, Junction Main Road,
State Bank Colony Bus Stop,
Salem - 4. ...

Respondents in all
Crl.OPs.

Common Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to set aside the order dated 30.05.2016 made in Cr.M.P.Nos.2421 & 2422 of 2016 in C.C.No.287 of 2013, CrI.M.P.Nos.2424 & 2425 of 2016 in C.C.No.289 of 2013 and CrI.M.P.Nos.2427 & 2428 of 2016 in C.C.No.288 of 2013 on the file of the Judicial Magistrate No.V, Salem.

For Petitioners in :Mr.K.S.Karthik Raja
all CrI.OPs.

COMMON ORDER

These criminal Original petitions have been filed to set aside the order dated 30.05.2016 made in Cr.M.P.Nos.2421 & 2422 of 2016 in C.C.No.287 of 2013, CrI.M.P.Nos.2424 & 2425 of 2016 in C.C.No.289 of 2013 and CrI.M.P.Nos.2427 & 2428 of 2016 in C.C.No.288 of 2013 on the file of the Judicial Magistrate No.V, Salem.

2. Heard the learned counsel appearing for the petitioners.

3. It is seen that the petitioners are facing prosecution under Section 138 of the Negotiable Instrument Act before the Judicial Magistrate No.V, Salem. While so, when the matters were posted for judgment, the petitioners had filed an application to re-open the case and recall PW1 for further cross-examination, which was dismissed by trial Court by order dated 30.05.2016, challenging which, the petitioners are before this Court.

4.Mr.K.S.Karthik Raja, learned counsel for the petitioners submitted that the petitioners had to prove before the trial Court that the complainant was only a broker and there was no subsisting debt., vis-a-vis the petitioners.

5. On a perusal of the petition filed by the petitioner before the trial Court under Section 311 Cr.P.C, the petitioner had not even given any reasons for recalling the witness. In **A.G. Vs.Shiv kumar Yadav and another** reported in **2015 (9) Scale 649** the Hon'ble Supreme Court has laid down the parameters under which the petition under Section 311 Cr.P.C can be maintained.

6. In this case, the petitioners have not made out a prima facie case to reopen and recall, especially, when the case was posted for judgment. Under such circumstances, this Court does not find any infirmity in the order passed by the trial Court. Hence, these petitions are dismissed. Consequently, connected miscellaneous petitions are closed.

17.08.2016

sms
To

1.The Judicial Magistrate No.V,
Salem.

P.N.PRAKASH,J,

sms

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Crl.MP.Nos.8651, 8652 & 8653 of 2016

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