

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.09.2016

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.OP.No.21955 of 2016

and M.P.No.10184 of 2016

N.Mohamed Iias

...Petitioner

vs.

R.Selvaraja

...Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., pleaded to set aside the order passed in C.M.P.No.781 of 2016 in S.T.C.No.1719 of 2013 on the file of Judicial Magistrate No.II, Pollachi dated 08.09.2016.

For Petitioner : Mr.M.N.Balakrishnan

O R D E R

This petition has been filed to set aside the order passed in C.M.P.No.781 of 2016 in S.T.C.No.1719 of 2013 on the file of Judicial Magistrate No.II, Pollachi dated 08.09.2016.

2. Heard the learned counsel for the petitioner.

3. For the sake of convenience the parties will be referred to by their name.

4. Selvaraj has initiated a prosecution u/s.138 of the Negotiable Instrument Act in S.T.C.No.1719 of 2013 which is pending before the Judicial Magistrate - II, Pollachi, against Mohamed Ilias (Accused). After the prosecution evidence was over, Mohamed Ilias was examined u/s.313 Cr.P.C. and the case was posted for defence. At that juncture, Mohamed Ilias, has filed C.M.P.No.781 of 2016 in S.T.C.No. 1719 of 2013 u/s. 91 Cr. P.C. for a direction to Selvaraj to produce his Voter Identity, Ration Card, Aadhar card and driving License. The trial Court heard both sides and by impugned order dated 08.09.2016 dismissed C.M.P.No.781 of 2016, aggrieved by which Mohammed Ilias is before this Court.

4. Learned counsel appearing for Mohammed Iias, submitted that, the documents are very much relevant for the just decision of the case. This Court gave its anxious consideration, to the submissions made by Mr.Balakrishnan, appearing for Mohamed Iias. It is the case of Mohamed Iias that, he does not know Selvaraj and Selvaraj is a benami of one Vijayamurugan with whom Mohammed Ilias is said to have entrusted the impugned cheques as security in respect of a transaction which he had with Avanitha Textiles.

5. It is not known as to how the residential address of Selvaraj will be relevant for deciding this dispute. That apart, when the complainant issued a statutory notice u/s.138 of Negotiable Instrumental Act, the same has been returned with the postal endorsement "addressee left". Thus even the address given by Mohamed Iias to Selvaraj was not sufficient for service of statutory notice u/s.138 of Negotiable Instrument Act. State of Orissa Vs. Debendranath Padhi 2004 AIR SCW 6813 the Supreme Court has laid down the guidelines for invoking power u/s.91 Cr.P.C. Supreme Court has stated that a petition u/s.91Cr.P.C should not be entertained for making a fishing enquiry.

6. In the light of the fact that, even when he was cross examined u/s.313 Cr.P.C. he had not stated anything about the address of Selvaraj. This petition is dismissed. Consequently, Miscellaneous Petition is also closed.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

dpq

To

1. The Judicial Magistrate No.II,
Pollachi

2. Do thro the Chief Judicial Magistrate
Coimbatore

CRL.OP.No.21955 of 2016
and M.P.No.10184 of 2016

VD (CO)
kk 4/11