

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2016

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. No.25204 of 2016

and Crl.M.P.No.12230 of 2016

R.Udhayachandar

Petitioner/Accused

vs.

Siva @ Sivasubramania Pillai

Respondent/Complainant

Criminal Original Petition filed under Section 482, Cr.P.C. to set aside the order dated 22.10.2016 passed by the Fast Track Court No.I, (Magistrate level) Coimbatore in CMP No.9512 of 2016 in C.C.No.589 of 2013 and revise the same by allowing the petitioner to adduce his evidence.

For petitioner Mr.K.C.Karl Marx

ORDER

This petition has been filed to set aside the order dated 22.10.2016 passed by the Fast Track Court No.I, (Magistrate level) Coimbatore in CMP No.9512 of 2016 in C.C.No.589 of 2013 and revise the same by allowing the petitioner to adduce his evidence.

2. Heard the learned counsel for the petitioner/accused.

3. The petitioner is an accused in C.C.No.589 of 2013 for an offence u/s 138 of the Negotiable Instruments Act, before the Judicial Magistrate No.II,

Coimbatore, on the complaint lodged by the respondent. The complainant was examined-in-chief and he was also cross examined by the accused on 23.03.2016. Thereafter, the case was posted for arguments. At that time, the accused filed an application to re-open the case, on the ground that he wants to examine the defence witness. The petition was numbered as CMP No.9512 of 2016 and was dismissed by the trial Court on 22.10.2016, challenging which the accused is before this Court.

4. Learned counsel for the accused submitted that, the accused wants to examine himself as a defence witness and that has been negatived by the trial Court.

5. This Court gave its anxious consideration to the submissions made by the learned counsel for the accused.

6. In the petition filed by the accused in CMP No.No.9512 of 2016, he has merely stated that the case should be opened for the purpose of defence witness. The accused has not even given the provision of law in the petition. Even for examination of defence witnesses, it is imperative for the accused to show how those witnesses are relevant for the just decision of the case. Therefore, this Court does not find any infirmity in the order passed by the trial Court. However, it will be in the interest of justice, if liberty is granted to the accused to file a fresh application u/s 315 Cr.P.C. for examining himself as a defence witness by waiving his right of silence. In the guise of examining himself, the accused cannot be permitted to examine any other defence witness.

In the result, this petition is dismissed and the order passed by the trial Court is confirmed. Consequently, connected miscellaneous petition is closed. However, the petitioner is given liberty to file a fresh petition u/s 315 Cr.P.C. before the trial Court within two weeks from the date of receipt of a copy of this order and on such application being filed, the same shall be dealt with in the manner known to law.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

gms

To

1.The Fast Track Court No.I,
(Magistrate level) Coimbatore.

2.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.K.C.Karl Marx Advocate sr 66553

CrI.O.P. No.25204 of 2016

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