

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2016

C O R A M

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CrI.O.P.No.25897 of 2016
and
CrI.MP Nos.12787 & 12788 of 2016

S.Somasundaram

...Petitioner

Vs.

M/s.Arihant Retail P. Ltd.
No.92, GA Road,
Old Washermenpet,
Chennai - 600 021.

...Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C to set aside the order dated 09.11.2016 passed by the Learned Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai-1 in CrI.M.P.No.4393 of 2016 in C.C.No.3401 of 2014.

For Petitioner : Mr.R.Selvakumar

For Respondent : C.Emalias,
Additional Public Prosecutor

O R D E R

The Criminal Original Petition has been filed to set aside the order dated 09.11.2016 passed by the Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai-1 in CrI.M.P.No.4393 of 2016 in C.C.No.3401 of 2014.

2. Heard the learned counsel for the petitioner.

3. The petitioner is facing trial in C.C.No.3401 of 2014 before the Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai-1 for an offence u/s 138 of the Negotiable Instruments Act, 1881. The petitioner filed a petition under Section 311 Cr.P.C., in which, he has not even stated which witness should be recalled. The Trial Court, by a well-considered order dated 09.11.2016, dismissed the petition, challenging which, the petitioner/accused is before this Court.

4. The learned counsel for the petitioner submitted that the accused should be recalled as a witness.

5. This Court is unable to countenance the aforesaid submission. The accused cannot be compelled to give evidence in a Criminal Court, unless he waives his right of silence under Section 315 Cr.P.C.

6. Therefore, this Court is of the view that the petition is bereft of minimum particulars for the Trial Court to exercise its jurisdiction under Section 311 Cr.P.C.

In the result, this petition is dismissed as being devoid of merits. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

kmi

To

1.The Metropolitan Magistrate,
Fast Track Court No.IV,
George Town, Chennai-1.

2.-Do- Through The Chief Judicial Magistrate,
Egmore @ Allikulam,
Chennai - 3.

+1cc to M/s. R.Selvakumar, Advocate, S.R.No. 70681

Cr1.O.P.No.25897 of 2016

GMI (CO)
PSI (29/12/2016)