

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.06.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP.No.3332 of 2016
and CrlMP No.1725 of 2016

V.Murugan ... Petitioner

Vs

B.Balaji ... Respondent

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records pertaining to the order dated 03.11.2015 passed in CrlMP No.8209 of 2015 in CC No.1477 of 2013 by the learned IV Judge, Fast Track Court, George Town, Chennai-1 and to set aside the same.

For Petitioner :Mr.M.Kamalakannan

For Respondent :Mr.C.Parthiban

ORDER

This petition has been filed to set aside the order dated 03.11.2015 passed in CrlMP No.8209 of 2015 in CC No.1477 of 2013 passed by the learned IV Judge, Fast Track Court, George Town, Chennai.

2.For the sake of convenience, the parties will be referred to as the complainant and accused. It is seen that the petitioner is facing prosecution for the offences under Section 138 of the Negotiable Instruments Act.

3.It is the case of the complainant that on 03.06.2012, the accused borrowed a sum of Rs.3,00,000/-from various financiers and that the accused had executed Promissory Notes in favour of financiers. It is further alleged by the complainant that the financiers had endorsed the alleged Promissory Notes in favour of the complainant. When the complainant demanded for repayment of money, the accused has issued a cheque for Rs.3,42,000/- dated 06.02.2013, which when presented by the complainant was returned and after issuing the statutory notice dated 03.04.2013, the accused neither replied to the notice nor made any payment. the complaint launched a prosecution in CC

No.1477 of 2013 before the IV Metropolitan Magistrate, Fast Track Court, George Town, Chennai.

4.Learned counsel for the accused submitted that the complainant was examined as PW1 and in the proof affidavit filed by him, he had given the names of five persons as financiers from whom the accused is said to have borrowed the money. It may be relevant to state that the names of these five persons were not disclosed in the complaint filed by the complainant but, the complainant has enclosed the Promissory Notes, that were allegedly executed by the accused in favour of the said five persons, which according to the complainant has been endorsed in his favour.

5.Mr.M.Kamalakannan, learned counsel for the accused submitted that the complainant was cross examined and the accused was examined under Section 313 of CrPC. Thereafter, when the matter was posted for defence witnesses, the accused has filed an application for issuance of summons to all the financiers named by the complainant in his proof affidavit as defence witnesses and it has been rightly rejected by the trial Court by order dated 03.11.2015 in CrIMP No.8209 of 2015 in CC No.1477 of 2013 on the ground that the accused has not even given the addresses of the said five persons to the trial Court to issue summons.

6.Learned counsel for the accused further submitted that the complainant himself has not given the addresses of the said persons and therefore, the accused does not know the addresses. It is trite law that for the purpose of issuance of summons, the address of the witnesses and how they are relevant for deciding the facts in issue, require to be stated by the parties, who wants the Court to issue process. In the absence of the minimum materials, the Court cannot mechanically issue process. Therefore, this Court does not find any infirmity to interfere with the same. Hence, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mps

To
1.The Judge,
Fast Track Court, No.IV
George Town, Chennai-1.

2.The Public Prosecutor,
High Court, Chennai.

1 cc to M/s. M.Kamalakannan, Advocate, sr.32501

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