

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2016

CORAM

THE HONOURABLE MS. JUSTICE R.MALA

Crl.O.P.Nos.4463 and 4464 of 2016
and Crl.M.P.No.2334 of 2016

M.Senthilkumar ... Petitioner in
both the petitions

Vs

S.Deepak ... Respondent in
both the petitions

Criminal Original Petitions filed under Section 482 Cr.P.C. seeking a direction to set aside the order dated 24.02.2016 passed in unnumbered SR 1936/12 & SR1935/12 Crl.M.P.Nos...../2016 in S.T.C.No.253 of 2012 on the file of the Judicial Magistrate (Fast Track Court) No.1, Erode.

For Petitioner : Mr.I.C.Vasudevan

For Respondent : MrS.B.Viswanathan

O R D E R

The petitioner has come forward with these petitions seeking for a direction to set aside the order dated 24.02.2016 passed in unnumbered Crl.M.P.No...../2016 in S.T.C.No.253 of 2012 on the file of the Judicial Magistrate (Fast Track Court) No.1, Erode.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

3. The respondent is the complainant and he has preferred a complaint against the petitioner under Sections 138 and 142 of the Negotiable Instruments Act. After examination of P.W.1, both the petitioner/accused and the respondent/complainant has filed Crl.M.P.Nos.4719 of 2014 and 4122 of 2014 before the learned Judicial Magistrate I, Fast Tract Court, Erode and the same were dismissed on 14.09.2015 and a direction was given to the parties that if any ambiguity in the cross examination, they are at liberty to file an application for recalling and re examining the witnesses and also permit them to cross examine the witnesses. Though the said order has been passed on 14.09.2016,

after six months, the petitioner has filed the unnumbered petitions in S.T.C.No.253 of 2012 for recalling of P.W.1 on 24.02.2016. In that applications no orders have been passed and the same were returned stating that "the case is posted for judgment. Written arguments also filed by this petitioner. Hence, at this stage, how this petition is maintainable. Hence, returned." Instead of re-presenting the same, the petitioner has filed the present petitions only to drag on the proceedings.

4. On a perusal of the typed set of papers it is seen that already liberty has been given by the trial Court on 14.09.2015 for filing an application for recalling the witnesses. Once liberty has been given, the petitioner ought to have been filed a petition immediately. But, after six months, the petitioner has filed the unnumbered petitions for recalling of P.W.1. However, the same were returned. Without re-presenting the same, the petitioner has preferred these petitions to set aside the order dated 24.02.2016 in unnumbered Crl.M.P.No..../2016 in S.T.C.No.253 of 2012 on the file of the Judicial Magistrate (Fast Track Court) No.1, Erode. Therefore, this Court is of the view that only to drag on the proceedings, these petitions have been filed and hence, these Criminal Original Petitions are deserve to be dismissed. Accordingly, these Criminal Original Petitions are dismissed. However, this Court directs the learned Judicial Magistrate I, Fast Track Court, Erode to dispose of the case in S.T.C.No.253 of 2012, within a period of one month from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

- 1.The Judicial Magistrate,
(Fast Track Court)No.1,
Erode.
- 2.The Chief Judicial Magistrate,
Erode.

+1cc to Mr.I.C.Vasudevan, Advocate Sr.21385
+2ccs to Mr.S.B.Viswanathan, Advocate sr.21957 & 21956

Crl.O.P.Nos.4463 and 4464 of 2016

gj[co]
srg 02/05/2016