

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP.No.20092 of 2017

in

Crl.A.SR.39649 of 2017

A.V. Selvarathinam

...Petitioner/Complainant

Vs.

T.Prabavathy

...Respondent/Accused

Criminal Original Petition filed under Section 378(4) Cr.P.C., to grant leave to prefer appeal before this Hon'ble Court against the order in S.T.C.No.376/2016 dated 12.07.2017 on the file of Learned Judicial Magistrate No.1 Kanchipuram.

For Petitioner : Mr.V.Purushothaman

ORDER

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This Criminal Original Petition has been filed seeking grant of leave to prefer appeal before this Court against the order in S.T.C.No.376/2016 dated 12.07.2017 on the file of Learned Judicial Magistrate No.1 Kanchipuram.

2. For the sake of convenience, the petitioner and the respondent are referred to as complainant and accused.

3. The complainant is the appellant before this Court. It is the case of the complainant that the accused, who is a lady had taken a hand loan of Rs.32,000/- and in discharge of the said loan, she had issued a cheque for the said amount and the same was dishonoured. After issuing statutory notice under Section 138 of the Negotiable Instruments Act, the complainant launched a prosecution in STC. No. 376 of 2016 before the learned Judicial Magistrate No.1 Kancheepuram against the accused. Thereafter, the complainant did not appear before the Trial Court, on account of which, the complaint was dismissed under Section 256 Cr.P.C. by the trial Court on 12.07.2017, aggrieved by which, the complainant is before this Court seeking Special Leave to appeal.

4. Heard the learned counsel for the complainant.

5. Learned counsel for the complainant submitted that the complainant was a business man and that his non-appearance before the trial Court was on account of his pre-occupation.

6. This Court perused the records and they speak for themselves. It is seen that the docket entries in S.T.C.No.376 of 2016 read as follows:

" Ture of Docket Proceedings

<u>07-09-2016</u> Complainant present. Sworn Statement recorded. Original cheque produced Prima facie case made out Issue fresh summon to accused by 07-10-2017.	Sd/-xxx
<u>07-10-2016</u> Complainant absent. RPAD return ID call on 09-11-2016	Sd/-xxx
<u>09-11-2017</u> Complainant absent. Petition filed and allowed. Accused summon returned as not calamined I/D. Hence Service held sufficient. Issue bailable warrant call on 30-01-2017.	Sd/-xxx
<u>30-01-2017</u> Complainant absent. Bailable warrant pending call on 01.03.2017	Sd/-xxx
<u>01-03-2017</u> Complainant absent. Bailable warrant pending call on 12-05-2017	Sd/-xxx
<u>12-05-2017</u> Complainant absent. Bailable warrant pending call on 12-07-2017	Sd/-xxx
<u>12-07-2017</u> Complainant absent. No represented. Notice sent to Complainant Steps not take for executing bailable warrant. Hence complainant is dismissed for non prosecution.	Sd/-xxx

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Sd/-V.S.Meenakshi
Judicial Magistrate No.1
Kancheepuram."

P.N.PRAKASH,J

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7. Thus, from a reading of the above, it is evident that after having filed the complaint, the complainant has not gone to the trial Court, despite the fact that the trial Judge had issued bailable warrant to secure the presence of the accused, for which, the complainant had not even paid the necessary batta.

8. In such view of the matter, this Court is of the opinion that the complainant has not made out a case for granting Special Leave to appeal.

In the result, this petition stands dismissed. Connected Crl.A.SR.No.39649 of 2017 is closed.

03.10.2017

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To

- 1.The Judicial Magistrate No.1 Kanchipuram.
- 2.The Public Prosecutor, Madras High Court.

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