

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.03.2017

Coram

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

Crl.O.P.No.5089 of 2017

G.R.Thilak

.. Petitioner/Accused

Vs.

K.Shankar

.. Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C to call for the records in CC No.2147 of 2012 on the file of the learned Fast Track Court No.III, Metropolitan Magistrate, Saidapet, Chennai and to set aside the order in Crl.MP.No.685 of 2016 dated 23.01.2017.

For Petitioner : Mr.R.Vivekananthan

ORDER

Challenging the order dated 23.01.2017 passed by the learned Fast Track Court No.III, Metropolitan Magistrate, Saidapet, Chennai, in Crl.M.P.No.685 of 2016 in CC No.2147 of 2012, the present Criminal Original Petition came to be filed.

2.It is the case of the petitioner that he is facing trial before the learned Fast Track Court No.III, Metropolitan Magistrate, Saidapet, Chennai, in C.C.No.2147 of 2012 for the alleged offences punishable under Sections 138 and 141 of Negotiable Instruments Act. During the course of trial, he cross examined the complainant on 06.11.2013, 07.04.2014 and 06.06.2014, however, he could not complete the same due to lack of time. Thereafter, the complainant was continuously absent for the subsequent hearings. Hence, the petitioner filed a petition in C.M.P.No.685 of 2016 under Section 311 Cr.P.C seeking further cross examination of the complainant. However, the said petition was dismissed by the learned Magistrate, by the order impugned herein. Aggrieved over the same, the present petition came to be filed by the petitioner.

3.Heard the learned counsel for the petitioner and perused the materials placed before this Court.

4.A perusal of the order impugned in this petition would reveal that the petitioner has cross examined the complainant on

06.11.2013, 07.04.2014 and 06.06.2014 and thereafter, kept silent till 2016. Only on 29.02.2016, he has filed Section 311 Cr.P.C petition, seeking permission to further cross examination of the complainant. Therefore, the trial court has dismissed the said petition by observing that it was only to drag on the proceedings.

5.At this juncture, it is noteworthy to recollect the observation of the Hon'ble Apex Court in the decision reported in (2015) 3 SCC 220 (Vinod Kumar v. State of Punjab), that the trial courts are expected in law to follow the command of the procedure relating to trial and not yield to the request of the counsel to grant adjournment for non-acceptable reasons and that, the duty of the court is to see that not only the interest of the accused as per law is protected, but also the societal and collective interest is safeguarded. The Hon'ble Supreme Court has further observed that such a long time for cross examination of the witness is anathema to the concept of proper and fair trial.

6.In the light of the above decision, this Court finds no reason to interfere with the order so passed by the learned Magistrate, as the same is perfectly correct and in accordance with law.

7.In the result, this petition stands dismissed.

-s/d-
Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

To

1. Fast Track Court No.III, Metropolitan Magistrate,
Saidapet, Chennai
2. -do- Chief Metropolitan Magistrate
Egmore, Chennai

Cr1.OP.No.5089 of 2017

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