

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Revision No.463 of 2017
and
Crl.M.P.No.4123 of 2017

Sudharsanam .. Petitioner/Appellant

Vs

Jayaraman .. Respondent/Complainant

Prayer:- Criminal Revision filed under Section 397 r/w. 401 of Cr.P.C., to set aside the order passed by the learned principal District and Sessions Judge, Tiruvallur in C.M.P.No.2510 of 2015 in C.A.No.67 of 2014 dated 21.10.2016.

For Petitioner : Mr.A.J.Mohamed Kassim

ORDER

Challenging the order of dismissing the petitioner's application, filed under Section 391 Cr.P.C., to produce C.D file pursuant to the complaint given by the respondent/complainant and also summon to one Mr.Rajasekaran as to give evidence.

2. The petitioner herein is the accused, in a private complaint, in C.C.No.305/2012, for the offence under Section 138 of Negotiable Instruments Act. The trial court, by a judgment dated 17.06.2014, convicted the petitioner and sentenced him to undergo simple imprisonment for 6 months and also to pay a sum of Rs.1,50,190/- as compensation under Section 357(3) Cr.P.C, in default, to undergo simple imprisonment for 2 months.

3. Challenging the same, the petitioner filed an appeal in C.A.No.67 of 2014 on the file of the Principal District Sessions Court, Tiruvallure. When the appeal was listed for hearing, the petitioner has filed a petition under Section 391 Cr.P.C to produce the C.D file pertaining the complaint given by one Jayaraman. The lower appellate court, dismissed the above petition holding that pending trial, the witness summons were issued to the Rajasekar, but he did not appear and then the evidence was closed. Thereafter, the appeal was filed and the appeal was pending for more than one year and the petitioner did not take any steps to file the application. When the appeal was posted for argument, the

present application has been filed and the court has held that this petition has been deliberately filed to drag on the proceedings and dismissed the same.

4. I have heard Mr.A.J.Mohamed Kassim, learned counsel appearing for the petitioner and perused the materials available on record.

5. The trial court has rightly held that already pending trial, summons have been issued to the Rajasekar and since summons have not been served, he was not examined and the evidence was closed. Even though ample opportunity was available to the petitioner to call for the C.D file, he has not taken any steps to call for the above record and mark the same.

6. In the above circumstances, I find no illegality or irregularity in the order passed by the court below. Hence, there is no merits in this revision and the same is liable to be dismissed.

7. In the result, the revision is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

To

1. The Principal District Judge,
Tiruvallur.
2. The Judicial Magistrate,
Fast Track Court (Magisterial level),
Thiruvallur.
3. The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.C.S.Saravanan,advocate,sr.17316.

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krd 12/4

Cr1.R.C.No.463 of 2017