

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2017

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THE HON`BLE MR.JUSTICE A.D. JAGADISH CHANDIRA

Crl.O.P.No.23532 of 2013

and

M.P.No.1 of 2013

Mr.Inchul Hwang

... Petitioner

Vs

V.M.Loganathan

... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C to set aside the order dated 26.08.2013 passed by the learned Fast Track Court III Metropolitan Magistrate, Saidapet, Chennai in Crl.M.P.No.5656/2013 in C.C.No.2257/2012.

For Petitioner : M/s.J.A.S.Satish Kumar

For Respondent : Mr.N.Bhaskaran

ORDER

This Criminal Original Petition has been filed challenging the order dated 26.08.2013 passed by the learned Fast Track Court III Metropolitan Magistrate,

Saidapet, Chennai in CrI.M.P.No.5656 of 2013 in C.C.No.2257 of 2012 directing the petitioner to produce the following documents:

1. Bureau of Immigration, Chennai Registration Certificate/Residential Permit (RC/RP)

2. Original employment contract issued by the employer at Korea containing the contract period and terms.

2. The learned counsel for the petitioner is present. The learned counsel for the respondent is absent for the second time. No purpose will be served in keeping the petition pending.

3. The order has been challenged by the petitioner/accused on the ground that the above documents sought to be produced are not relevant documents which are either necessary or desirable for the purpose of the trial and moreover, the Magistrate has passed a non-speaking order without giving reasoning on what basis the documents sought for by the petitioner are reliable or desirable for arriving at a just conclusion in the trial.

4. Brief facts of the case is that the petitioner is an accused in C.C.No.2257 of 2013 filed by the respondent for the offence punishable under section 138 of Negotiable Instruments Act. While the trial was pending, the

respondent/complainant had earlier filed petition in CrI.M.P.No.1101 of 2013 praying for direction to direct the accused to surrender his passport on the ground that the petitioner/accused is a foreigner who was working in Chennai on contract basis and he may leave to Korea at any time. The trial court by an order dated 20.06.2013 had accepted the contention of the respondent/complainant directing the petitioner to furnish security for the cheque amount in any one of the Nationalised Bank and to file the receipt before the court on or before 12.07.2013. The petitioner/accused had deposited the amount in State Bank of India, Sriperumbudur Branch by way of fixed deposit and he had filed the fixed deposit receipt before the trial court. Thereafter, a petition has been filed by the respondent/complainant with the prayer to produce the above mentioned documents in the court and the trial court had passed the order allowing the petition and directed the petitioner/accused to produce the documents.

5. The order has been challenged by the petitioner/accused on the ground that the documents sought for are neither necessary nor desirable for trial and this has been done only with the intention of harassing the petitioner/accused who is a foreigner and no reason had been stated by the respondent/complainant to make out the case that the documents sought for were relevant and necessary to serve the ends of justice.

6. Records perused. As rightly pointed out by the learned counsel for the petitioner, neither in the petition nor in the order anything has been stated that the production of the documents is necessary or desirable for the purpose of the

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trial. No proper and valid reasons have been stated to show that the documents are relevant for deciding the case. When that is so, it is clear that the documents have been sought by the complainant only with the motive of harassing the accused who is a foreigner. The above non-speaking order without proper reasoning has to be set aside and thereby the order passed by the Magistrate in CrI.M.P.No.5656 of 2013 dated 26.08.2013 is set aside.

7. The learned Fast Track Court III Magistrate, Saidapet, Chennai is directed to complete the trial within three months from the date of receipt of a copy of this order.

8. With the above direction, this Criminal Original Petition is disposed of. Consequently, the connected miscellaneous petition is closed.

06.09.2017

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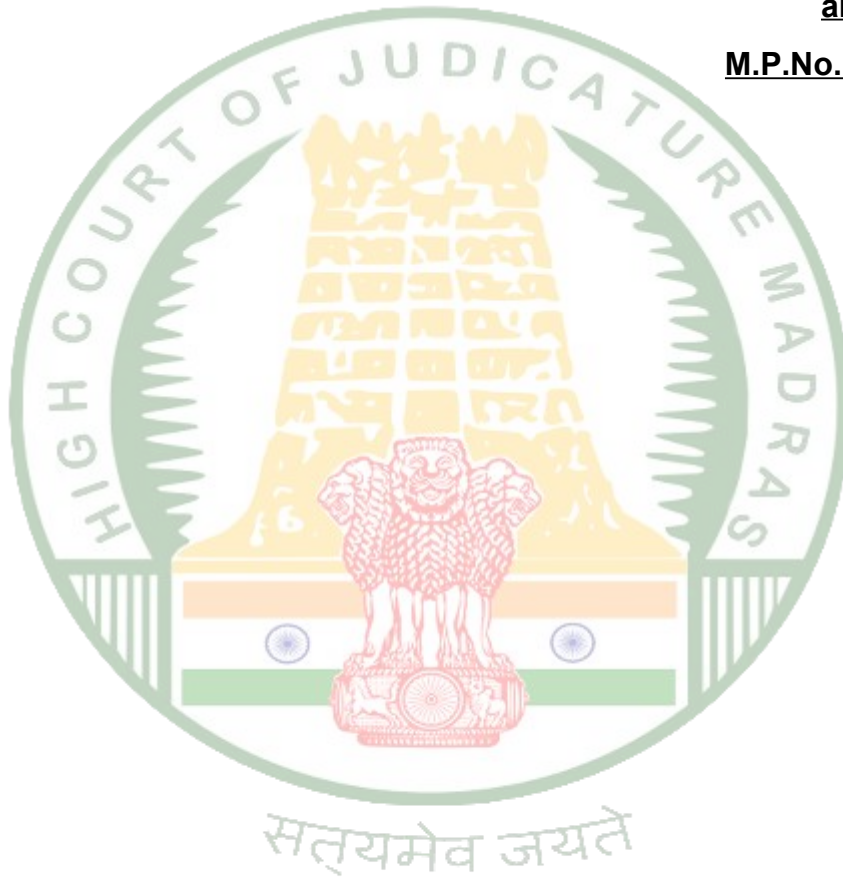
Index : Yes
Internet: Yes
To

- 1.The Fast Track Court III Metropolitan Magistrate, Saidapet.
- 2.The Public Prosecutor, High Court, Chennai.

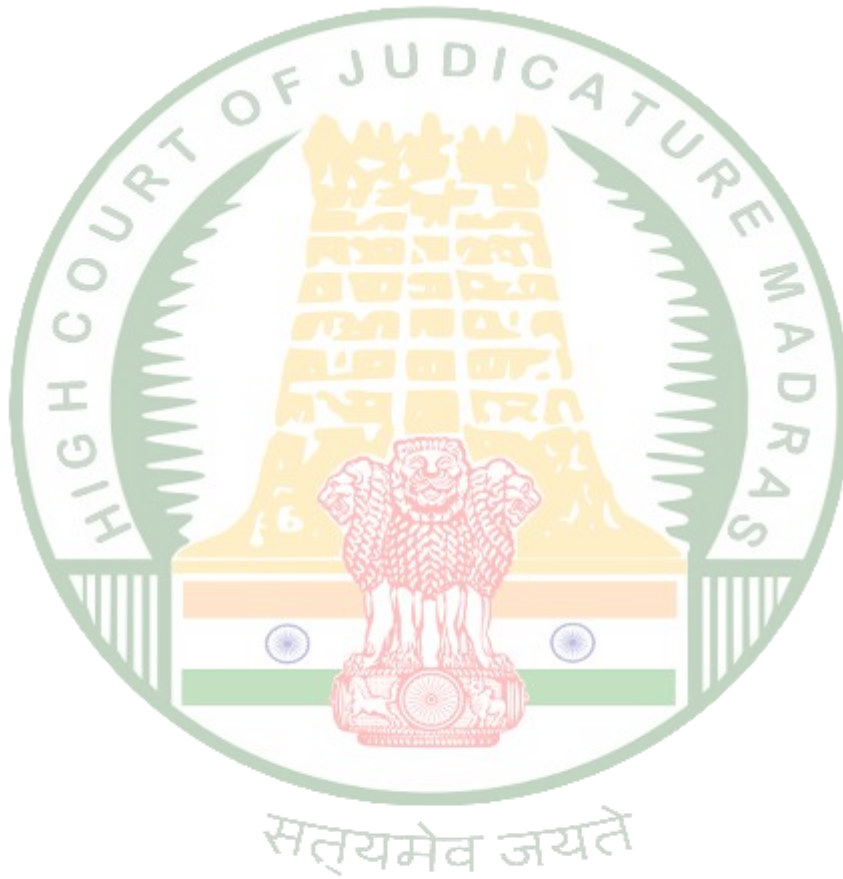
Crl.O.P.No.23532 of 2013

and

M.P.No.1 of 2013



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**Crl.O.P.No.8530 and 9300/2017
ADJCJ**

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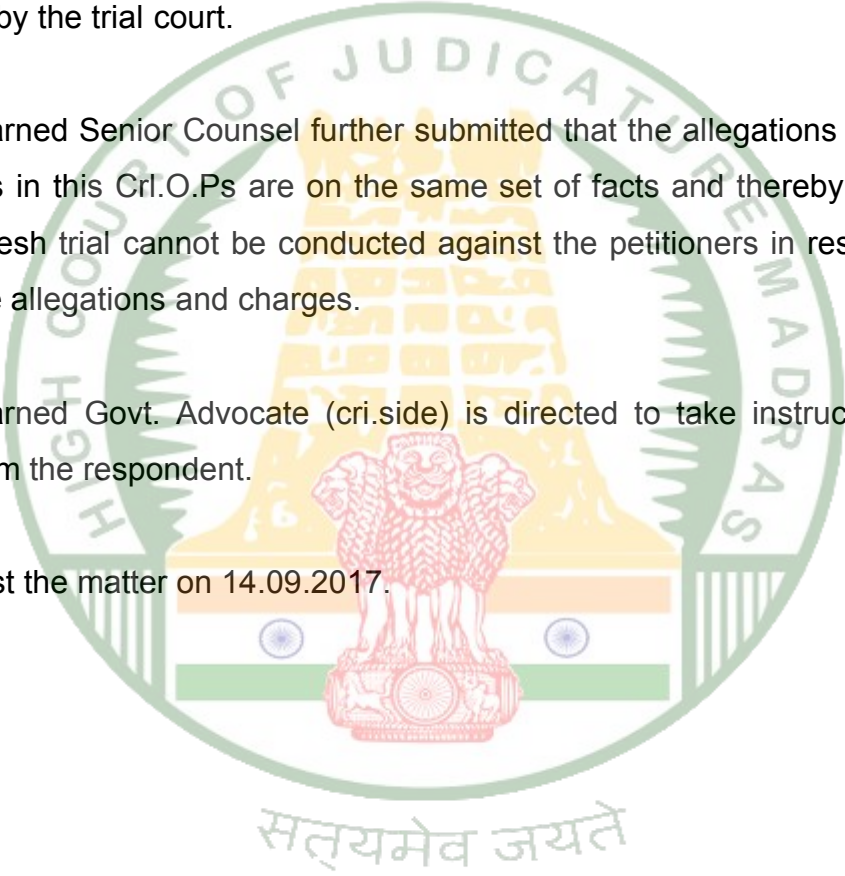
At request of learned counsel for the respondent post the matter on
14.09.2017.

It has been submitted by the learned Senior Counsel appearing for the petitioner that by virtue of an earlier order passed by this Court in CrI.O.P.No.11043 of 2015 the case against the other accused, the Government Officials were split up and a direction was given by this court to complete the trial within the period of three months from the date of receipt of order and thereafter, the matter was tried by the trial Court and all the accused have been acquitted by the trial court.

Learned Senior Counsel further submitted that the allegations against the petitioners in this CrI.O.Ps are on the same set of facts and thereby contended that the fresh trial cannot be conducted against the petitioners in respect of the very same allegations and charges.

Learned Govt. Advocate (cri.side) is directed to take instruction in this regard from the respondent.

Post the matter on 14.09.2017.



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