

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2017

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

Crl.O.P.No.2187 of 2016

and

Crl.MP.No.1154 of 2016

C.Murugan

.... Petitioner

Vs

1.M/s.The Nilgiris Tea Service
represented by its Managing Partner,
B.K.Krishnakumar

2.B.K.Krishnakumar
(Managing partner of
M/s.The Nilgiri Tea Services)

.... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the order dated 08.12.2015 in Crl.MP.No.10977 of 2015 in CC No.83 of 2011 on the file of the Court of the Fast Track Judicial Magistrate No.II, Coimbatore and consequently allow Crl.MP.No.10977 of 2015 in CC No.83 of 2011.

For Petitioner : Mr.N.Sivakumar

For Respondents : Mr.A.Bobbilie

ORDER

Challenging the dismissal of Section 311 Cr.P.C petition filed by the complainant, the present Criminal Original Petition came to be filed.

2. Heard both sides and perused the materials placed before this Court.

3. The facts made available herein would reveal that the petitioner has filed a private complaint against the respondents herein for the offence punishable under Section 138 of the Negotiable Instruments Act and the same was taken on file as CC No.83 of 2011 by the learned Judicial Magistrate No.II, Fast Track Court at Magisterial Level, Coimbatore. Pending the same, he has filed a petition in CMP.No.10977 of 2015 in CC No.83 of 2011 to reopen the case for examining the Manager, Karur Vysya Bank, Saravanampatty Branch, Coimbatore stating that the bank statement produced by PW.2 did not disclose the amount withdrawn by the petitioner and that, he has another account at Karur Vysya Bank at Saravanampatty Branch, in which, he withdrew the amount for advancing loan to the accused. The respondents vehemently opposed the said petition. After considering the submissions made on either side and perusing the records, the trial Court has dismissed the said petition, by order dated 08.12.2015, which is impugned herein.

4. It is seen from the impugned order that the trial Court, while dismissing the said petition, has stated that the petitioner has already examined an officer attached to Karur Vysya Bank, Kovaiputhur, through whom, marked his bank statement for the period from 01.03.2010 to 31.05.2010 as Ex.P15 and that, he has filed the said petition belatedly, that too, at the stage of pronouncing judgment and has not stated any plausible and satisfactory reason for the same. The trial Court has further observed therein that mere proof regarding withdrawal of amount from the account maintained by the complainant cannot be treated as proof for the payment of loan to the accused. This Court finds no reason to interfere with the order so passed by the trial Court in dismissing Section 311 Cr.P.C petition, which, in my view, is perfectly correct.

5. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is also dismissed.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

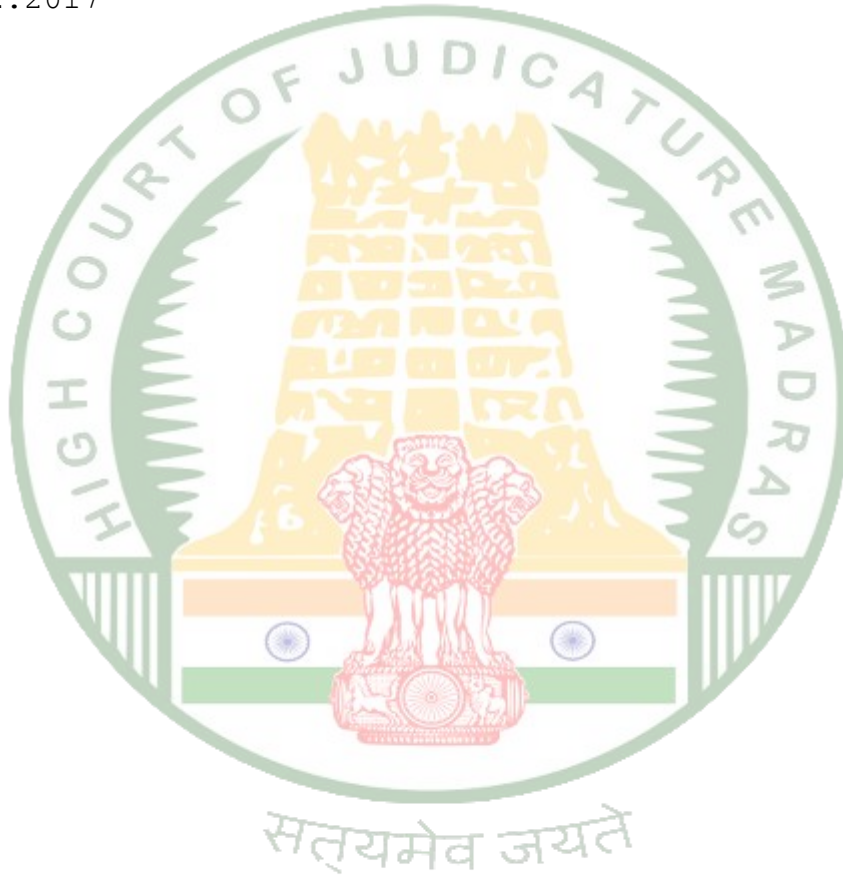
Fast Track Judicial Magistrate No.II, Coimbatore.

+1cc to Mr.N.Sivakumar, Advocate SR.No.1504

+1cc to Mr.A.Babblie, Advocate SR.No.1363

CrI.O.P.No.2187 of 2016

SDR 27.02.2017



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