

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2017

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.O.P.No.15033 of 2012

and

M.P.No.1 of 2012

P.A.Chenniappan,
S/o.Arappa Gounder .. Petitioner/2nd Accused

vs.

K.Rangasamy,
S/o.Kaliappa Gounder .. Respondent/Complainant

Criminal Original Petition filed under Section 482 of Crl.P.C. to set aside the order dated 06.01.2012 made in C.M.P.No.2752 of 2011 in C.C.No.04/2007 on the file of the District Munsif Cum Judicial Magistrate, Perundurai.

For Petitioner : Mr.M.Guruprasad

For Respondent : Mr.A.K.Kumarasamy

WEB COPY
O R D E R

This petition has been filed challenging the Order dated 06.01.2012 passed in C.M.P.No.2752 of 2011 in S.T.C. No.04/2007 on the file of the District Munsif Cum Judicial Magistrate, Perundurai.

2. The petitioner accused in case pending trial for offence u/s. 138 of the Negotiable Instruments Act in C.C.No.4 of 2007 on the file of the District Munsif Cum Judicial

Magistrate, Perundurai moved petition u/s. 91 Cr.P.C towards calling for documents, bearing his signature contemporaneous to the cheque giving rise to the action. Court below has allowed such petition in part and called upon Canara Bank, Perundurai branch, to forward the specimen signature of the petitioner held by it. Court below has also imposed a cost of Rs.1,000/- (Rupees One thousand only). Aggrieved thereby, the petitioner/accused has filed the present petition.

3. This Court expressed the view that the petitioner was not permitting proceedings in the case filed in the year 2007. Learned counsel for petitioner submits that such is not the case and pursuant to an earlier order of the Court below. The disputed cheques were sent for expert opinion and it was only on the Forensic Sciences Department, by letter dated 22.03.2011, calling for production of documents bearing the signature of the petitioner during the years 2004 -2005 that petitioner moved petition u/s. 91 in the year 2011.

4. This Court finds that the order under challenge reflects the position that though C.M.P No. 5267 of 2007 referred to by counsel for petitioner was allowed on 19.06.2008, the case had been adjourned for filing of admitted signatures of the petitioner/accused and after lapse of 3 years, petition under section 91 had been moved. Such itself is sufficient cause for Court below to dismiss petition in Criminal M.P.No.2752 of 2011.

5. Be that as it may, this Court is of the view that interests of justice require and accordingly orders as follows:

(i) The petitioner is required to pay a sum of Rs.10,000/- (Rupees Ten Thousand only) to the District Legal Services Authority within a period of three weeks from the date of receipt of this order.

(ii) Upon production of receipt of such payment, Court below shall

require the Canara Bank, Perundurai branch, to produce three cheques drawn by the petitioner on his account no.10060 during the period 2004-05.

(iii) Upon having receipt of the same, Court below shall forward the cheques bearing the signature of the petitioner for comparison with the disputed signature in the cheques.

(iv) In the event of the petitioner not complying with the order of costs imposed herein, this petition shall be dismissed without any further reference to this Court. Considering the case is of the year 2007 Court below is

directed to dispose of the case as expeditiously as possible and within a period of two months from the date of receipt of the report of the expert. Consequently, connected miscellaneous petition is closed. It is made clear that if the bank concerned informs its inability to forward cheques as herein above directed owing to non availability given the passage of time, Court below may proceed to dispose of the case on merits.

-Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

To

1 The District Munsif Cum Judicial Magistrate,
Perundurai.

COPY TO:

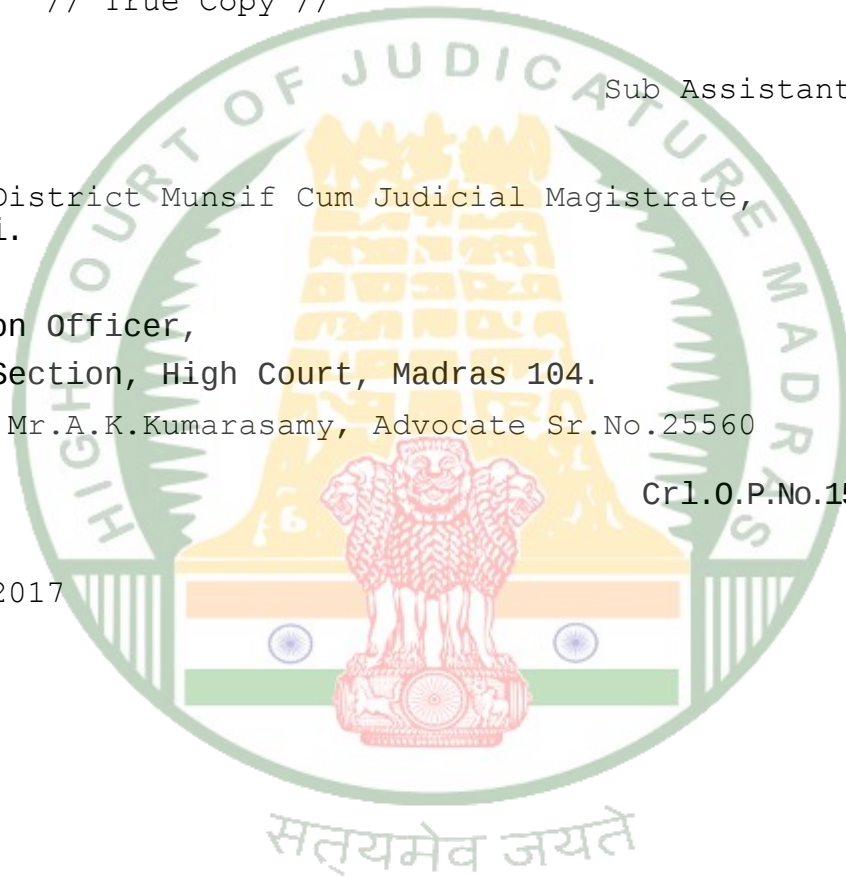
The Section Officer,
Criminal Section, High Court, Madras 104.

+ 1 cc to Mr.A.K.Kumarasamy, Advocate Sr.No.25560

Cr1.O.P.No.15033 of 2012

CO(RR)

VS 22/11/2017



WEB COPY