

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2017

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

Crl.O.P.Nos.25657 to 25659 of 2016
and
Crl.M.P.Nos.12497, 12498 and 12499 of 2016

N.Saravanan ... Petitioner in all
the Crl.O.Ps./Accused
Vs

C.Balu @ Chinnasamy ... Respondents in all
the Crl.O.Ps./Complainant

Criminal Original Petitions filed under Section 482 Cr.P.C. to set aside the order dated 7.11.2016, passed in Crl.M.P.Nos.1819, 1818 of 2016 and 1817 of 2016 in S.T.C.Nos.22 of 2015, 31 of 2014 and 14 of 2014, on the file of the learned Judicial Magistrate, Fast Track Court, Dharmapuri.

For Petitioner : Mr.C.Prabakaran,
in all the petitions.

For Respondent : Mr.R.Prabakar,
in all the petitions.

COMMON ORDER

The present criminal original petitions have been filed to set aside the order dated 7.11.2016, passed in Crl.M.P.Nos.1819, 1818 of 2016 and 1817 of 2016 respectively in S.T.C.Nos.22 of 2015, 31 of 2014 and 14 of 2014 respectively, on the file of the learned Judicial Magistrate, Fast Track Court, Dharmapuri.

2. It is the case of the petitioner that the respondent has filed three private complaints as against the petitioner under Section 138 of the Negotiable Instruments Act with respect of dishonour of cheques and the same were registered as S.T.C.Nos.22 of 2015, 31 of 2014 and 14 of 2014 by the learned Judicial Magistrate, Fast Track Court, Dharmapuri. The cheques in question have been issued by the petitioner in blank at the time of availing hand loan from the respondent. Therefore, even prior to the filing of the private

complaints, the petitioner has caused a legal notice through his counsel on 27.11.2012 by registered post with acknowledgement due and the same was also received by the respondent. In the said notice, the counsel for the petitioner demanded the respondent to return the blank cheques since the entire amount has been settled by the petitioner. However, the respondent did not return the blank cheques and sent a statutory notice on 29.6.2013. A reply notice dated 2.7.2013 was also sent by the petitioner. During the course of cross examination of D.W.2, the legal notice dated 27.11.2012 sent by D.W.2 was marked as Ex.D.4. At that time, a question was posed by the learned Magistrate as to whether the acknowledgement card for service of the said notice was produced before the Court and it was replied by D.W.2 that the same was produced in the private complaint filed by the petitioner as against the respondent before the learned Judicial Magistrate No.I, Dharmapuri in CrI.M.P.No.1916 of 2014. However, the learned Magistrate closed the defence side evidence and advised the petitioner to file a petition under Section 311 Cr.P.C. for marking the acknowledgement card. Thereafter, the petitioner filed applications in CrI.M.P.Nos.1819, 1818 of 2016 and 1817 of 2016 along with certified copies of the acknowledgement card. But, the said applications were dismissed on the ground that the applications were filed only to drag on the proceedings. Hence, challenging the same, the petitioner has come up with the present petitions.

3. Learned counsel appearing for the petitioner submitted that since the original acknowledgement card was produced in the private complaint filed by the petitioner as against the respondent before the learned Judicial Magistrate No.I, Dharmapuri in CrI.M.P.No.1916 of 2014, the petitioner could not file the same and hence, the petitioner sought to mark the certified copy of the said acknowledgement card. However, without considering the same, the learned Magistrate dismissed the petitions filed by the petitioner.

4. Considering the facts and circumstances of the case and considering the fact that the original acknowledgement card was produced in the private complaint filed by the petitioner as against the respondent before the learned Judicial Magistrate No.I, Dharmapuri in CrI.M.P.No.1916 of 2014, this Court is inclined to permit the petitioner to have his petitions filed under Section 311 Cr.P.C. once again heard for the purpose of marking the certified copy of the acknowledgement card alone.

5. Accordingly, the order of the learned Judicial Magistrate, Fast Track Court, Dharmapuri, dated 7.11.2016, passed in CrI.M.P.Nos.1819, 1818 of 2016 and 1817 of 2016 respectively in S.T.C.Nos.22 of 2015, 31 of 2014 and 14 of 2014 respectively is set aside. The learned Magistrate is directed

to hear the applications in CrI.M.P.Nos.1819, 1818 of 2016 and 1817 of 2016 afresh for marking the certified copy of the acknowledgement card alone. Such marking shall take place within a period of two weeks from the date of receipt of a copy of this order. Further, the learned Judicial Magistrate, Fast Track Court, Dharmapuri, is directed to expedite the trial of the cases in S.T.C.Nos.22 of 2015, 31 of 2014 and 14 of 2014 and dispose of the same as expeditiously as possible, preferably, within a period of six months thereafter. All the Criminal Original Petitions are ordered accordingly. Consequently, all the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sbi

To

- 1.The Judicial Magistrate,
Fast Track Court,
Dharmapuri.
2. -do- Thro The Chief Judicial Magistrate,
Dharmapuri.
3. The Public Prosecutor, High Court, Madras.

+ 2 ccs to M/s. N. Arulkumar, Advocate Sr.5352
+ 3 ccs to M/s. R.Prabakar, Advocate SR.5324, 5325, 5326

CrI.O.P.Nos.25657
to 25659 of 2016

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