

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2017

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

Crl.OP No.29722 of 2012

& M.P.Nos.1 & 2 of 2012

R.Subramaniam

..Petitioner

Vs

M/s Forma Finance & Investment
Rep by its Power of Attorney
Sushil Forma

..Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order dated 08.10.2012 in Crl.M.P.No.1998 of 2012 in C.C.No.7287/1998 on the file of the VIII Metropolitan Magistrate Court, George Town, Chennai.

For Petitioner : Mr.V.T.Narendiran

For Respondent : No Appearance

O R D E R

This petition has been filed to set aside the order passed in Crl.M.P.No.1998 of 2012 in C.C.No.7287/1998 on the file of the VIII Metropolitan Magistrate Court, George Town, Chennai.

2.The respondent has filed a private complaint against the petitioner under Section 138 of the Negotiable Instruments Act for dishonour of 4 cheques for a total value of Rs.20,00,000/- on the ground that they were returned for "Insufficient Funds".

3.When the case was posted for examination of the defence witness, the complainant filed a petition under Section 311 of the Criminal Procedure Code to examine further witness. The said petition was opposed by the accused on the ground that it was filed to fill up the lacuna and the proposed witness is not cited as witness in the private complaint. The learned Magistrate has allowed the application. Challenging the same, the present petition is filed by the accused.

4.The learned counsel for the petitioner has submitted that

the powers under Section 311 of the Criminal Procedure Code have to be exercised very sparingly and when the complainant has not given any reason in the petition, the learned Magistrate ought to have dismissed the petition. Under the guise of the interest of justice, all the applications filed under Section 311 of the Criminal Procedure Code cannot be allowed.

5.I am not able to agree with the contention of the learned counsel for the petitioner for the reason that when PW1 Power Agent of the complainant was cross examined, the accused has raised questions about his personal knowledge in the transactions, which necessitated the complainant to examine further witnesses.

6.Considering the above facts, in my considered opinion, the learned Magistrate rightly allowed the application. I do not found any merit in this case. In that view, this Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

pvs

To
The VIII Metropolitan Magistrate Court,
George Town, Chennai.

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T.R (27/10/2017)

सत्यमेव जयते

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