



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2017

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Crl.R.C (MD) No.366 of 2017 and
Crl.M.P.No.3427 of 2017

A.Murugan

... Petitioner

Vs.

1.N.Ganeshan

2.State through Public Prosecutor,
Dindigul.

... Respondents

Petition filed under Sections 397 read with 401 Cr.P.C, to set aside the order dated 06.09.2016 passed in Crl.M.P.No.3340 of 2015 in C.A.No.24 of 2015 by the Principal Sessions cum District Judge, Dindigul District and allow the present petition.

For Petitioner

: Mr.G.Gomathi Sankar

For R - 1

: Mr.D.Selvaraj

ORDER

Challenging the order, dismissing the application filed under Section 391 Cr.P.C., to file additional evidence, the present Criminal Revision Case has been filed.

2.The petitioner is an accused in a private complaint under Section 138 of the Negotiable Instruments Act, 1881. He stood convicted for the said offence in C.C.No.123 of 2012 on the file of the Judicial Magistrate Court, Dindigul and sentenced to undergo six months simple imprisonment and directed to pay Rs.2,00,000/- as compensation to the complainant. Challenging the same, an appeal has been preferred in C.A.No.24 of 2015 on the file of the Principal Sessions Court, Dindigul District. Pending Appeal, the petitioner has filed an application under Section 391 Cr.P.C., for marking some documents pertaining to antecedents and character of the respondent/complainant. The first appellate Court has dismissed the application. Challenging the same, the present Criminal Revision Case has been filed.

<https://hcservices.ecourts.gov.in/hcservices/>

3.I have heard Mr.G.Gomathi Sankar, learned counsel for the



petitioner and Mr.D.Selvaraj, learned counsel for the first respondent and perused the records carefully.

4.The learned counsel for the petitioner submitted that no opportunity has been given to the petitioner to prove his case and the first appellate Court has erroneously dismissed the application.

5.The petitioner has filed the application on the ground that the complainant is a habitual offender and number of criminal cases are pending against him and he has also filed so many complaints against so many persons under Section 138 of the Negotiable Instruments Act, 1881, which shows the fraudulent act of the respondent/complainant in filing the present complaint against the petitioner. In support of his contention, he wants to mark some documents viz., action dropped memo filed by Thadicombu Police Station; a complaint made before the Director General of Police against the Sub Inspector of Thadicombu Police Station and some assurance letters given by two accused persons in C.C.No.431 of 2003 in favour of the complainant.

6.The first appellate Court after considering the entire materials, dismissed the application stating that most of the documents, sought to be marked are emerged from the year 2003 and no reason is assigned as to why the petitioner has not taken any steps to mark the same before the trial Court, even though the documents are available during trial. The appellate Court has also stated that the documents sought to be marked are no way connected with the present complaint.

7.If the petitioner wants to file a petition pending appeal, invoking the provision under Section 391 Cr.P.C., he should satisfy the Court that inspite of his due diligence, the above documents could not be produced before the trial Court. Apart from that, as rightly held by the trial Court, the documents are no way connected to the present complaint.

8.Considering the above said facts and circumstances, I find no illegality or irregularity in the order passed by the Court below and hence, this Criminal Revision Case is liable to be dismissed.

9.In fine, this Criminal Revision Case is dismissed. Consequently, CrI.M.P.No.3427 of 2017 is closed. Since the appeal is pending from the year 2015, the lower appellate Court is directed to dispose of the appeal within three months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CS-II)

/True Copy/



To

The Principal Sessions Judge,
Dindigul District.

WEB COPY

+ 1 CC TO Mr.G.GOMATHI SANKAR, ADVOCATE IN SR No. 64621

+ 1 CC TO Mr.D.SELVARAJ, ADVOCATE IN SR No. 64628

MJ

TE/MR-KKR/SAR-I : 20/07/2017 : 3P/4C

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