



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:22.11.2017

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CrI.O.P.(MD)No.12736 of 2011

and

M.P.(MD)No.1 of 2011

K.Ramesh Thangadurai

... Petitioner/Sole Accused

Vs.

S.Subramanian

... Respondent/Complainant

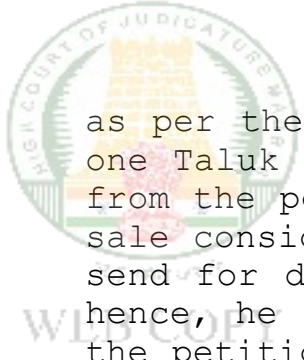
PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, against the order dated 12.08.2011 made in Cr.M.P.No.10012 of 2011 in S.T.C.No.1210 of 2010 on the file of the learned Judicial Magistrate, Srivaikundam.

For Petitioner : Mr.S.Siva Thilakar
For Respondent : Mr.V.Natarajan

O R D E R

This Criminal Original Petition has been filed under Section 482 Cr.P.C., challenging the order passed by the learned Judicial Magistrate, Srivaikundam in Cr.M.P.No.10012 of 2011 in S.T.C.No.1210 of 2010 to quash the same.

2. The learned counsel for the petitioner would submit that, the petitioner is the respondent in a Criminal Case filed under Section 138 of Negotiable Instruments Act. After completing the evidence, the matter was posted for arguments. When the trial is going on, the respondent/complainant has not specifically denied the fact that the sale consideration was passed and his evasive oral evidence is of no use and at that time, the petitioner filed a petition under Section 91 of Cr.P.C., in Cr.M.P.No.10012 of 2011, to send for three documents from the 'Marketing Regulatory Authority' which is functioning as per the provisions of Tamil Nadu Agricultural Produce Regulation Act, 1959, in order to prove the vital aspect that whether the respondent has transported 14 tons of paddy by way of transportation to Kovilpatti. It is also pertinent to state that



as per the above said Act, those who want to transport paddy from one Taluk to another Taluk they have to pay cess as per Form - 15 from the period 01.04.2010 to 30.04.2010 and to prove that whether sale consideration is passed or not, the petitioner is entitled to send for documents from the 'Marketing Regulatory Authority' and hence, he filed a petition. But, the learned Magistrate dismissed the petition, stating that the complainant itself admitted that he is not paid any income tax or sales tax and therefore documents is not necessary and the petitioner filed a petition only to drag on the proceedings pending before the trial Court and therefore, the petitioner is before this Court.

3. The learned counsel appearing for the respondent would submit that evidence was already completed and after completion of the entire evidence, the petitioner/respondent herein filed the petition under Section 91 of Cr.P.C. to produce some documents from the 'Marketing Regulatory Authority'. He would further submit that issuance of a direction to the 'Marketing Regulatory Authority' to produce a document before the lower Court, is not permissible in law.

4. The case of the respondent/complainant is that the petitioner issued a cheque in favour of the respondent and the cheque was dishonored. It is for the petitioner to prove the case before the Court. Thereafter, it is for the respondent to disprove the case and by asking for marking of documents, no useful for the parties to decide the case.

5. I have heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and also perused the materials available on record.

6. Considering the facts and circumstances of the case, in my considered opinion, the petition filed by the petitioner is clearly abuse of process of law and the same is not a genuine one and in order to defeat the rights of the respondent, he filed a baseless petition before the lower Court. When at the relevant point of time there was no restriction for paddy movement from one District to another District, there is every possibility to sell paddy to the petitioner and it is for the petitioner to disprove the prosecution case.

7. In the result, the Criminal Original petition is dismissed. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-III)



To

The Judicial Magistrate,
Srivaikundam.

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+ 1 CC TO Mr.S.SIVATHILAKAR, ADVOCATE IN SR No. 89330

+ 1 CC TO Mr.V.NATARAJAN, ADVOCATE IN SR No. 88880

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TE/MR-KKR/SAR-2 : 06/12/2017 : 3P/4C

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