

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2018

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. Nos.21052 to 21054 of 2018

S. Thangappan

... Petitioner in all the petitions

vs

1 Logos Constructions (P) Ltd.
represented by its Managing Director
S.S. Antony
S/o. SanthanaRaj
No.5/6, I Floor
J.S. Kannappar Salai
Ashok Nagar
Chennai 600 083

2 S.S. Antony Respondent in all the petitions

Criminal Original Petitions filed under Section 482 Cr.P.C. seeking to set aside the orders dated 31.07.2018 passed in Crl.R.C. Nos.16, 18 and 17 of 2018 by the Principal Sessions Judge, Chennai and confirm the orders dated 23.03.2018 passed by the Fast Track Metropolition Magistrate No.III Saidapet in Crl.M.P.Nos.862, 863 and 861 of 2018 permitting the petitioner for further examination and to mark documents.

For petitioner in Mr. A. Natarajan, Sr.
Counsel

all the Crl.O.Ps. for Mr. C.P. Palanichamy

For respondents in
all the Crl.O.Ps. Mr. S. Manimaran

COMMON ORDER

These Criminal Original Petitions have been preferred seeking to set aside the orders dated 31.07.2018 passed in Crl.R.C. Nos.16, 18 and 17 of 2018 respectively, by the Principal Sessions Judge, Chennai and confirm the orders dated 23.03.2018 passed by the Fast Track Magistrate No.III in Crl.M.P. Nos.862, 863 and 861 of 2018 respectively, permitting the petitioner for further examination and to mark documents.

2 For the sake of clarity and convenience, the petitioner and the respondents are referred to as the complainant and accused respectively.

3 The brief facts of the case are as under:

3.1 The complainant initiated three prosecutions against the accused in C.C. Nos.1949 of 2011, 7772 of 2010 and 5594 of 2010 qua three cheques and all the complaints are pending trial on the file of the Fast Track Court No.III, Saidapet, Chennai.

3.2 In all the three cases, witnesses were examined on behalf of the complainant and after examination of the accused under Section 313 Cr.P.C., the accused came forward to examine one Saravanan as D.W.1 in all the three cases. In the cross-examination of P.W.1, certain defence documents were marked and they were sought to be proved by examining Saravanan (D.W.1).

3.3 In the examination-in-chief of Saravanan (D.W.1), Exs.D.6 to D.12 were confronted and some of the documents were marked. In the cross-examination of Saravanan (D.W.1) by the complainant, he has given evasive replies and to almost all the questions, he has stated that he does not know the answer. Therefore, the complainant filed petitions under Section 311 Cr.P.C. to examine him further for explaining those documents.

3.4 The Trial Court allowed the petitions filed by the complainant under Section 311 Cr.P.C. Challenging the said orders, the accused filed three Criminal Revision Petitions before the Sessions Court and the Sessions Court allowed the three Criminal Revision Petitions and set aside the orders passed by the Trial Court, aggrieved by which, the complainant is before this Court.

4 Heard Mr. A. Natarajan, learned Senior Counsel representing Mr. C.P. Palanichamy, learned counsel on record for the complainant and Mr. Manimaran, learned counsel for the accused.

5 In the cases at hand, the accused have challenged the orders passed by the Trial Court by invoking the revisional jurisdiction of the Sessions Court and have succeeded, challenging which, the complainant is before this Court.

6 Mr. Manimaran, learned counsel for the accused, submitted that most of the documents, which were marked as defence exhibits, were certified copies of records, which do not require any further proof. He, therefore, submitted that the

complainant cannot dispute the authenticity of those documents.

7 However, on a reading of the cross-examination of Saravanan (D.W.1), it is seen that the complainant has attempted to explain those documents by confronting him with the averments therein, for which, Saravanan (D.W.1) has either remained silent without giving any answer or answered that he does not know. The Trial Judge who has noted the demeanour of Saravanan (D.W.1), has mentioned this in the deposition. Therefore, it is just and necessary that an opportunity should be afforded to the complainant to lead further evidence and the accused also has a right to further cross-examine the complainant.

8 Under such circumstances, this Court is of the view that the orders passed by the Sessions Court warrant interference and the orders passed by the Trial Court have to be restored.

9 Accordingly, the orders passed by the Session Judge are set aside and the orders passed by the Trial Court are restored. As stated above, after the further examination of the complainant in chief, the accused should be given an opportunity to cross-examine the complainant.

In the result, these Criminal Original Petitions stand allowed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

- 1 The Metropolitan Magistrate
Fast Track Court No.III
Saidapet
Chennai 600 015
- 2 The Principal Sessions Judge
Chennai

+3cc to Mr.C.P.Palanichamy, Advocate, S.R.No.70670 to 70672
+1cc to Mr.S.Manimaran, Advocate, S.R.No.70626

Cr1.O.P. Nos.21052 to 21054 of 2018

GSP(16/10/2018)