

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2018

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.6534 of 2010
and
M.P.Nos.1 & 2 of 2010

S.Kesavaramanujam,
S/o.G.Srinivasan.

... Petitioner/Accused

Vs.

Aalaya Garments,
Represented by its Partner,
S.R.Balakrishnan,
S/o.Rudrappa Naidu,
No.13, Annapoorana Layout,
Kongu Main Road,
Tiruppur.

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to set aside the Order in C.R.P.No.73 of 2009 dated 05.02.2010 passed by the Additional District and Sessions Court (Fast Track Court IV) Coimbatore at Tiruppur confirming the order passed by the learned Judicial Magistrate No.2, Tiruppur, in C.M.P.No.5732 of 2009 in S.T.C.No.2417 of 2007.

For Petitioner : No appearance

For Respondent : Not ready in Notice

O R D E R

This Criminal Original Petition is filed to set aside the Order in C.R.P.No.73 of 2009 dated 05.02.2010 passed by the Additional District and Sessions Court (Fast Track Court IV) Coimbatore at Tiruppur confirming the order passed by the learned Judicial Magistrate No.2, Tiruppur, in C.M.P.No.5732 of 2009 in S.T.C.No.2417 of 2007.

2.When the matter was taken up for hearing on 20.07.2018, there was no representation on behalf of the petitioner. Hence, the matter was adjourned to 01.08.2018, under the caption "for

dismissal". Even today, when the case was called, none represented for the petitioner, further adjourning the case without any progress would serve no purpose, except to keep the criminal case pending for years. In this back drop, on perusal of the records, the orders in the above Original Petition is rendered on merits.

3.The petitioner herein, who is an accused in a case filed under Section 138 of the Negotiable Instruments Act by the respondent/complainant, which is pending trial in S.T.C.No.2417 of 2007 on the file of the Judicial Magistrate No.2, Tiruppur has filed the above Criminal Original Petition seeking to set aside the order dated 05.02.2010 made in C.R.P.No.73 of 2009 passed by the learned Additional District and Sessions Judge (Fast Track Court No.IV), Coimbatore at Tiruppur, who had confirmed the order dated 09.12.2009 made in C.M.P.No.5732 of 2009 in S.T.C.No.2417 of 2007 passed by the learned Judicial Magistrate No.2, Tiruppur.

4.The contention of the petitioner is that the respondent has filed a private complaint under Section 138 of the Negotiable Instruments Act against the petitioner. In the trial, the respondent examined himself as PW1 and marked certain documents i.e. Ex.P.1 to Ex.P10. The petitioner has filed a petition under Section 91 of the Code of Criminal Procedure for production of certain documents namely Invoices, Statement of accounts, Partnership Deed and Registration certificate of the firm etc., which was dismissed by the Trial Court by its order dated 19.12.2009, on the reasons that the documents sought for by the petitioner are public documents, which are available with the petitioner. Further, it had held that the petition under Section 91 of the Code of Criminal Procedure was filed on completion of the trial. When, he was examined under Section 313 of the Code of Criminal Procedure and on going to the conclusion, to prolong and protract the proceedings the petition under Section 91 of the Code of Criminal Procedure has been filed and hence, the Trial Court dismissed the same. Aggrieved against the same the petitioner had filed the revision before the Additional District and Sessions Court (Fast Track Court No.IV), Coimbatore at Tiruppur in C.R.P.No.73 of 2009. The Appellate Court found no justification in the contention of the petitioner and confirming the order of the trial Court had dismissed the revision Petition in C.R.P.No.73 of 2009 by order dated 05.02.2010. Now, the petitioner has filed the above Criminal Original Petition to set aside the order of the Lower Courts' below.

5.At the outset, this petition is not maintainable, since this Criminal Original Petition amounts to second revision, which is not permissible in law and also on the facts above

discussed. Compounding to the same, the petitioner has not appeared in the above case, despite the case has been posted under the caption "for dismissal", this Court could have very well dismissed the petition in one line order, but in the interest of Justice and to conclude the proceedings once for all had gone into the merits and found that the petition filed by the petitioner is liable to be dismissed. Considering the inordinate delay in pendency of the eight years case at the stage of completion of evidence of the respondent/complainant, which have caused anguish and misery to the respondent/complainant, who had knock the doors of the Court to seek his grievances.

6.Thus, the Criminal Original Petition is dismissed. The Trial Court is directed to dispose of the trial as early as possible, preferably within a period of two months from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Additional District and Sessions
Judge (Fast Track Court IV),
Coimbatore at Tiruppur.

2.The Judicial Magistrate No.2,
Tiruppur.

3.The Public Prosecutor,
High Court, Madras.

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CrI.O.P.No.6534 of 2010

GP(CO)
GSP(05/09/2018)