

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :27.04.2018
CORAM

THE HON'BLE MR.JUSTICE P. N. PRAKASH
Crl.O.P.No.12470 of 2018
and
Crl.M.P.No.6655 of 2018

M.Sankaran

.. Petitioner

.Vs.

M/s.Shriram Transport Finance Company ltd.,
Represented by its General Power of Attorney
C.Lakshmanan, Legal Representative
M/s.Shriram Transport Finance Company Ltd.,
Palacode Branch,
Dharmapuri District.

..Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C
seeking a direction to set aside the order dated 05.04.2018 in
CMP.No.6980 of 2017 in C.C.No.171/2016 on the file of the
Judicial Magistrate, Palacode, Dharmapuri District.

For Petitioner : Mr.T.Naveen Chandar

O R D E R

This Criminal Original petition has been filed seeking to
set aside the order dated 05.04.2018 in CMP.No.6980 of 2017 in
C.C.No.171/2016 on the file of the Judicial Magistrate Court,
Palacode, Dharmapuri District.

2. For the sake of convenience, the petitioner and the
respondent will be referred to the accused and the complainant
respectively.

3. The complainant has initiated a prosecution in C.C.No.171
of 2016 under Section 138 of the Negotiable Instruments Act, 1881
and the same is pending before the Judicial Magistrate, Palacode,
Dharmapuri District. After examination of the prosecution
witnesses, the accused was examined under Section 313 Cr.P.C.
Thereafter, the accused filed Crl.MP.No.1680 of 2017 under
Section 311 Cr.P.C. for the purpose of examining the Manager of
Shriram Transport Finance Company Ltd., Krishnagiri Branch. The
said petition has been dismissed by the trial Court on
05.04.2018, challenging which, the accused is before this Court.

4. Heard Mr.T.Naveen Chandar, learned counsel for the accused, who submitted that the said witness is a material witness, in order to discharge the burden under Section 138 of the Negotiable Instruments Act.

5. However, the trial Court has found that the accused has not denied his signature in the cheque and that the accused knows about the civil proceedings that was initiated against him by the complainant for recovery of money. Civil proceedings were initiated even before the accused filed C.M.P.No.4304/2017 and C.M.P.No.6179/2017. When that is the position, the request of the accused to examine the Manager of Shriram Transport Finance Company Ltd, Krishnagiri Branch is only to prolong the trial. In A.G. Vs. Shiv Kumar Yadav and another, [(2015) 9 Scale 649], the Supreme Court has laid down the parameters for exercise of powers under Section 311 Cr.P.C., by the trial Court. The facts obtaining in this case do not pass muster the law laid down by the Supreme Court in the said judgment.

In the result, this petition is dismissed as being devoid of merits. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To
The Judicial Magistrate,
Palacode, Dharmapuri District.

+1cc to Mr.T.Naveen Chander Advocate Sr.NO.31520

RK(CO)
sm:15.5.2018

Cr1.O.P.No.12470 of 2018

WEB COPY