

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.06.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.15517 of 2018

and Crl.M.P.No.7921 of 2018

S.Murugarasan

.. Petitioner

Vs

R.Senthilkumar

... Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to modify the onerous condition alone i.e. to deposit a sum of Rs.1,00,000/- as a part amount from the cheque amount of Rs.2,00,000/- within a week by the order passed by the learned Judicial Magistrate, Kangayam in C.M.P.No.5201/2017 in C.C.No.314/2015 dated 04.05.2018.

For Petitioners : Mr.C.S.Saravanan

O R D E R

The petitioner is facing trial in C.C.No.314 of 2015 before the Judicial Magistrate, Kangayam for an offence under Section 138 of Negotiable Instruments Act, 1881. After the prosecution evidence was completed, the accused was examined under Section 313 of Cr.P.C. The accused filed C.M.P.No.5201 of 2017 to summon the Manager of the complainant's bank and also to summon the Manager of the accused bank, which has been allowed by the trial Court on 04.05.2018, on condition that the petitioner shall deposit a sum of Rs.1,00,000/- being 50% of the cheque amount within a week in the Court. Challenging the said order, this petition has been filed.

2.Mr.Saravanan, learned counsel for the petitioner/accused submitted that the accused had met with an accident and therefore, he was not able to mobilise the amount.

3.In the opinion of this Court, from 2015 to 2018, the prosecution has been prolonged for some reason or the other. The trial Court was justified in directing the accused to deposit 50% of the cheque amount as a condition precedent for summoning the witnesses. This Court does not find any infirmity in the order passed by the trial Court. However, taking into

consideration the fact that the petitioner met with an accident, a sum of Rs.1,00,000/- is reduced to Rs.50,000/-. The said sum of Rs.50,000/- shall be deposited on or before 02.07.2018 to the credit of C.C.No.314 of 2015 before the Judicial Magistrate, Kangayam. In the event of failure to deposit the amount, the petitioner will forfeit his right to examine the said witnesses and no further extension of time will be given.

With the above modification, this petition is ordered accordingly. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-VII)

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Sub Assistant Registrar

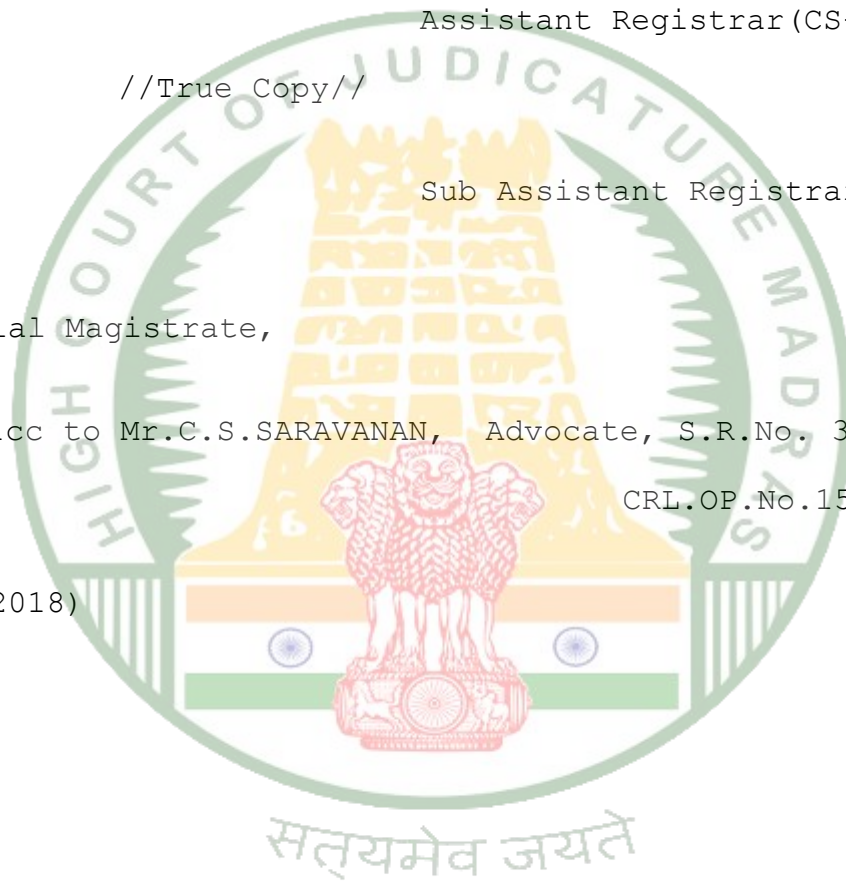
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To
The Judicial Magistrate,
Kangayam.

+1cc to Mr.C.S.SARAVANAN, Advocate, S.R.No. 37611

CRL.OP.No.15517 of 2018

PA(CO)
TR(14/06/2018)



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