

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2018

CORAM:

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

CrI.O.P. No.18341 of 2018

The Venus Trading Co.,
No.163-A, Railway Lane
Chekkan Thottam
Ganapathy, Coimbatore
Rep. by its Proprietor Shameem

Petitioner

vs.

Balaji Steel Traders
No.36, Avarampalayam Road
Opposite to IOB
Ganapathy, Coimbatore
Rep. by its Partner Babu

Respondent

Criminal Original Petition filed under Section 482, Cr.P.C. to set aside the order passed by the learned Fast Track Court No.II, Coimbatore made in C.M.P.No.1069 of 2018 in C.C.No.371 of 2016 dated 02.05.2018.

For Petitioner : Mr.Arunkumar
For Mr.M.N.Balakrishnan

O R D E R

This Criminal Original Petition has been filed to set aside the order dated 02.05.2018 passed by the Judicial Magistrate No.I, Fast Track Court, (Magisterial Level), Coimbatore made in C.M.P.No.1069 of 2018 in C.C.No.371 of 2016.

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

3. The complainant has initiated a prosecution in C.C.No.371 of 2016 under Section 138 of the Negotiable Instruments Act, 1881, and the case is pending trial on the file of the Judicial Magistrate No.II, Coimbatore. The complainant

was examined as PW1, but was not cross-examined by the accused. The accused filed CrI.MP.Nos.1069 & 1070 of 2018, to re-call PW1 for cross-examination. The complainant fairly submitted that he has no objection for cross-examination and therefore, the trial Court, by order dated 11.04.2018, allowed the petitions on condition that the accused should pay Rs.1,000/- to the complainant on or before the next hearing date. The accused did not make the payment and therefore, the petitions were dismissed on 02.05.2018, challenging which, the accused is before this Court.

4. Heard Mr.Arunkumar, learned counsel for the accused, who submitted that on account of boycott of Court, the accused did not pay Rs.1,000/- to the complainant.

5. However, in Harish Uppal [Ex.Capt.] Vs Union of India reported in [2003] 2 SCC 45, the Supreme Court has held that boycott of Courts is illegal. That apart, the accused could have paid Rs.1,000/-, as directed by the trial Court to the complainant outside the Court de hors the boycott. Hence, the reason for not paying Rs.1,000/- does not satisfy this Court. However, since the Complainant has stated that he has no objection for his cross-examination, it will be in the interest of justice, if one more opportunity is given to the accused to cross-examine the complainant on condition that, the accused should deposit the cheque amount before the trial Court within four weeks from the date of receipt of a copy of this order. On such deposit, the amount shall be re-deposited in any nationalized bank, so that it accrues interest. The Principal along with the interest can be disbursed either to the complainant or to the accused at the culmination of the trial. On such deposits within four weeks, liberty is given to the accused to cross-examine PW1 on the date fixed by the trial Court. If the accused fails to deposit the cheque amount within four weeks as stated above, he would forfeit his right to cross-examine PW1.

With the above directions, this petition is ordered, accordingly.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

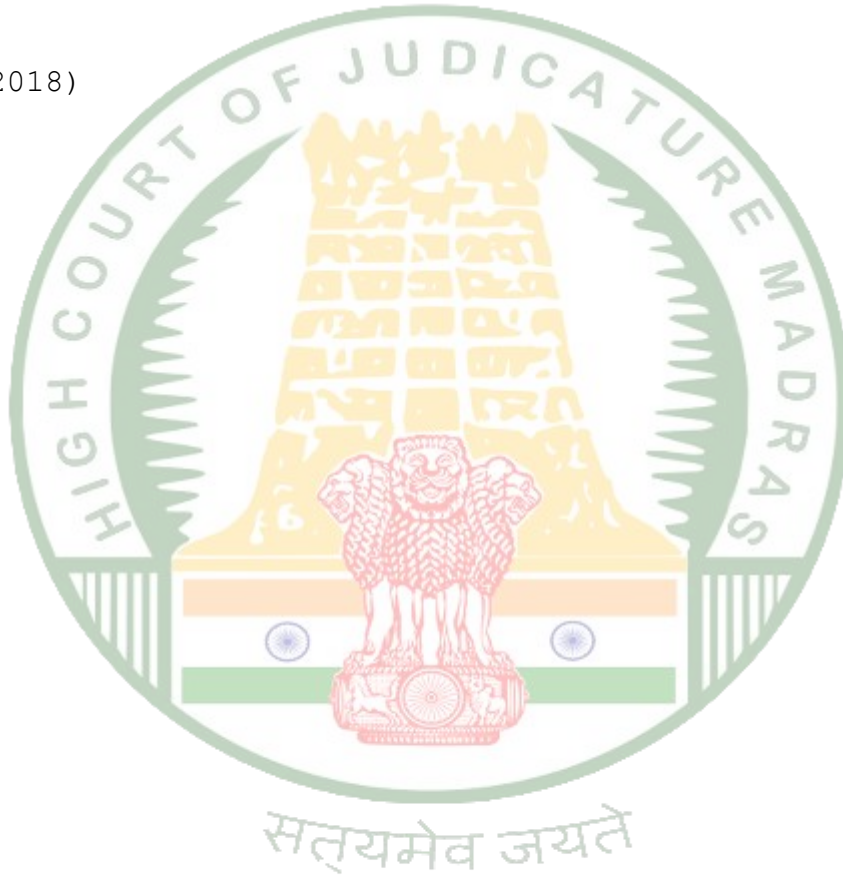
mk

To

The Judicial Magistrate No.I,
Fast Track Court, (Magisterial Level),
Coimbatore.

Crl.O.P. No.18341 of 2018

GN (27/07/2018)



WEB COPY