

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.07.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.18621 of 2018

S.Gubendran

.. Petitioner/Accused

Vs

P.Jayaseelan

.. Respondent/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C., praying to call for the records in C.C.No.176 of 2015 pending on the file of the Additional District Munsif-cum-Judicial Magistrate, Ambur, Vellore District and set aside the order dated 28.05.2018 made in Crl.M.P.No.254 of 2018 in C.C.No.176 of 2015.

For Petitioner : Mr.M.Praveen Kumar

O R D E R

The petitioner is facing prosecution in C.C.No.176 of 2015 before the Additional District Munsif-cum-Judicial Magistrate, Ambur for an offence under Section 138 of Negotiable Instruments Act, 1881. After the evidence of the prosecution was closed, the accused/petitioner was examined under Section 313 Cr.P.C. Thereafter, the petitioner/accused filed Crl.M.P.No.254 of 2018 in C.C.No.176 of 2015 for examining one Mohan Kumar, Head Clerk of Judicial Magistrate Court, Ambur and Jayaseelan [PW1/complainant] as his witnesses. The trial Court has rejected the request to examine the Head Clerk of Judicial Magistrate Court, Ambur, but has permitted the examination of Mohan Kumar and Jayaseelan on payment of Rs.500/- as cost on or before 28.05.2018. On 28.05.2018, the trial Court has passed the following order :

"Petitioner called absent no representation respondent counsel present cost not paid. Hence, this petition is dismissed [even extension of time also not sought] till 5.30 no representation."

Challenging the said order, this petition has been filed.

2.Heard the learned counsel appearing for the petitioner, who submitted that since the petitioner was sick, he did not comply with the order dated 14.05.2018.

3.In the opinion of this Court, the trial Court had only directed the petitioner to pay only a sum of Rs.500/- as cost and enough time was given to the petitioner to pay the amount. Despite several opportunity, the petitioner did not pay the amount. The petitioner did not bother to appear before the trial Court and make a representation either in person or through his counsel on 28.05.2018. Under such circumstances, this is not a fit case to interfere in the order passed by the court below and this petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gya

To

Additional District Munsif-cum-Judicial Magistrate,
Ambur, Vellore District.

CRL.OP.No.18621 of 2018

srg 31/07/2018

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