IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2018

CORAM

THE HONOURABLE Mrs.JUSTICE R.HEMALATHA

CRL.O.P.No.19966 of 2013
and
M.P.No.1 of 2013

M.Jaisankar .. Petitioner

Vs

1.Aarane-A-Traders,
Rep by its Partner,
K.K.Dhayanithe,
283, Vaiyapurai Nagar,
1st Cross, Karur.

2.K.K.Dhayanithe

3.V.N.Velusamy .. Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to set aside the orders dated 21.05.2013 passed in Cr.M.P.No.7311/2012 in S.T.C.No.116/2012 on the file of the Fast Track Court-II (Magistrate Level), Erode.

For Petitioner : Mr.I.C.Vasudevan
For Respondents : Mr.S.Kaithamalai Kumaran

O R D E R

The petitioner is the complainant in S.T.C.No.116 of 2012 on the file of the learned Judicial Magistrate, (Fast Track Court No.II), Erode. He had filed a private complaint under Section 200 Cr.P.C., before the learned Judicial Magistrate, (Fast Track Court No.II), Erode, against the respondents/Accused herein for an alleged offence punishable under Section 138 of the Negotiable Instruments Act. During the pendency of the trial in S.T.C.No.116 of 2012, the respondents / Accused herein filed a petition in Cr.M.P.No.7311 of 2012 under Section 91 of the Code of Criminal Procedure praying to direct the petitioner / complainant to produce the particulars of "PAN" issued by the Income Tax Department of India in his name and also to produce the Accounts, Day book, Ledger and Statement of affairs pertaining to his personal and business transactions including income tax returns for the years 2006-2007 and 2007-2008.

2.After full contest, the said petition was allowed by the learned Judicial Magistrate, (Fast Track Court No.II), Erode, directing the petitioner / complainant to produce income tax returns for the years 2006-2007 and 2007-2008 pertaining to his personal and business transactions along with the particulars of "PAN". Aggrieved against the orders passed by the learned Judicial Magistrate, (Fast Track Court No.II), Erode, the petitioner / complainant has filed the present petition to set aside the order dated 21.05.2013, in Cr.M.P.No.7311 of 2012 in S.T.C.No.116 of 2012.

3.The learned counsel appearing for the petitioner / complainant contended that the "PAN" and the Income tax returns for the years 2006-2007 and 2007-2008 are irrelevant to the proceedings in this case, as the petitioner / complainant had clearly deposed in his evidence that the amount was lent to the respondents / Accused from out of his undivided family account, which was not assessed to income tax. He further contended that the particulars of "PAN" and the income tax returns for the years 2006-2007 and 2007-2008 would not serve any useful purpose for proper and first adjudication of the case in S.T.C.No.116 of 2012.

4.Per contra, the learned counsel appearing for the respondents / Accused contended that since the petitioner / complainant has to prove his case by adducing rebuttal evidence. "PAN" and income tax returns for the years 2006-2007 and 2007-2008 are absolutely necessary and that the learned Judicial Magistrate, (Fast Track Court No.II), Erode had rightly allowed the petition filed by the petitioner / Accused.

5.At the outset, it may be observed that when the petitioner / complainant has admitted in his evidence that the transaction between the petitioner / complainant and the respondents / Accused had not been mentioned in the income tax returns filed by him, no useful purpose would be served by summoning those records. This aspect has not been taken into account by the learned Judicial Magistrate, (Fast Track Court No.II), Erode before allowing the petition in Cr.M.P.No.7311 of 2012 in S.T.C.No.116 of 2012. Apart from that, it is not known as to why the particulars of "PAN" of the petitioner / complainant had been called for by the concerned learned Judicial Magistrate when the clear case of the petitioner / complainant was that he gave the loan amount from out of the undivided family account, which was not assessed to income tax and that the transaction between him and the respondents / Accused had not been indicated in the income tax returns for the relevant periods.

Hence, the orders passed by the learned Judicial Magistrate (Fast Track Court No.II), Erode warrants interference by this Court.

6.In the result, this Criminal Original Petition is allowed. Since the case in S.T.C.No.116 of 2012 is of the year 2012, the learned Judicial Magistrate (Fast Track Court No.II), Erode is directed to dispose of the case within a period of three months from the date of receipt of copy of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate,
   (Fast Track Court No.II),
   Erode.

2. DO-Thro' The chief Judicial Magistrate,
   Erode.

Copy To

The section officer
criminal Section,
High Court Madras-104.

+1cc to Mr.I.C.Vasudevan, Advocate, S.R.No.36529
+1cc to Mr.S.Kaithamalai Kumaran, Advocate, S.R.No.36861

Crl.O.P.No.19966 of 2013

KK(CO)
BM 28/06/2018