



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.(MD)No.3663 of 2016
and CrI.M.P.(MD)No.1852 of 2016

S.Raman :Petitioner/Petitioner/Complainant

Vs.

Sri Rajalingam :Respondent/Respondent/Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the order dated 03.02.2016 passed by the learned Judicial Magistrate, Vallioor, Tirunelveli District in CrI.M.P.No.518 of 2016 in C.C.No.394 of 2013, set aside the same and allow the petition filed by the petitioner before the lower Court.

For Petitioner : Mr.R.Anand
For Respondent : Mr.K.Rajeshwaran

ORDER

This Criminal Original Petition has been filed challenging the order of the Court below dismissing the petition filed under Section 91 Cr.P.C r/w311 Cr.P.C.

2.The petitioner is the complainant, who has filed a petition to summon the General Manager of Tirunelveli District Cental Co-Operative Bank and also the President of the Primary Agricultural Co-Operative Credit Society.

3.The Court below dismissed the petition on the ground that already the Secretary of the Radhapuram Primary Agricultural Co-Operative Bank was examined as P.W.2 and he has stated in his evidence that the instrument in question was not given by the said Bank. Similarly P.W.3, who is the Branch Manager of the Indian Overseas Bank, Vallioor has stated that only serial number of the instrument has been mentioned and there is no reference to a word cheque in the instrument. Similarly, the Branch Manager of the Indian Overseas Bank, Radhapuram has also deposed the same fact.

<https://hcservices.ecourts.gov.in/hcservices/>

4.The learned counsel appearing for the petitioner would

negotiable

6. This Court has carefully considered the arguments made on either side.

8. Now the petitioner/complainant wants to establish the fact that the instrument in question is a cheque. For this purpose, earlier the Secretary of the Primary Agricultural Co-Operative Bank was examined and he had stated that this instrument was not given by the said Bank. Therefore, no useful purpose will be served by examining the President of the Primary Agricultural Co-Operative Bank. Because any contradiction in their evidence will be no avail in order to find out the real nature of the instrument.

<https://hdsr.scrs.courts.gov/en/serwis/>

10.The Radhapuram Primary Co-Operative Bank comes directly



within the purview of the said Central Co-Operative Bank. Therefore, the Official from the Central Co-Operative Bank will be in a position to clarify as to the nature of the negotiable instrument which is the subject matter of this case.

11. In the result, this Criminal Original Petition is allowed and the order of the Court below is modified to the effect that the petitioner shall be permitted to examine the General Manager of the Tirunelveli District Central Co-Operative Bank, only for the purpose of establishing the nature of the negotiable instrument. The petitioner will not be permitted to re-open any other issues that have already come on record by examining other witnesses.

12. The Court below is directed to summon the General Manager of Tirunelveli District Central Co-Operative Bank, Vannarapettai, Tirunelveli and on the date of his appearance, the petitioner is directed to complete the examination and it is left open to the respondent to cross-examine the said witness. The entire evidence must be completed on the same day on which the Official is to be summoned before the Court below.

13. The learned Judicial Magistrate, Vallioor is also directed to dispose of the case in C.C.No.394 of 2013, within one month from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar (CS-I)

To

The Judicial Magistrate,
Vallioor,
Tirunelveli District.

+ 1 CC TO Mr.K.RAJESHWARAN, ADVOCATE IN SR No. 81999

GNS

TE/PM/SAR-1 : 29/10/2018 : 3P/3C

Crl.O.P. (MD) No.3663 of 2016
03.09.2018