



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON: 09.04.2018
DELIVERED ON : 21.06.2018
CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.728 of 2016

D.Baskaran .. Petitioner /Petitioner/Accused No.2
Vs.
D.John Ponnaiah .. Respondent/ Respondent/Complainant

Prayer : This revision case is filed under Sections 397(1) and 401 of Cr.P.C., to call for the records pertaining to the order of dismissal passed by the learned Judge, Fast Track Court (Magisterate Level), Thoothukudi in Cr.M.P.No.1102 of 2016 dated 28.09.2016 in C.C.No.24 of 2014 in the file of the learned Judge, Fast Track Court (Magisterate Level), Thoothukudi and set aside the same.

For Petitioner : Mr.B.N.Raja Mohamed
For Respondent : Mr.S.Siva Ilayaraja

ORDER

Heard Mr.B.N.Raja Mohamed, learned counsel appearing for the petitioner and Mr.S.Siva Ilayaraja, learned counsel appearing for the respondent.

2.This revision case has been filed to set aside the order passed by the learned Judge, Fast Track Court (Magisterate Level), Thoothukudi in Cr.M.P.No.1102 of 2016 dated 28.09.2016 in C.C.No.24 of 2014 in the file of the learned Judge, Fast Track Court (Magisterate Level), Thoothukudi.

3.On the side of the petitioner, it is stated that the petitioner is the Managing partner and an authorized signatory of M/s.Vimal Shipping Agencies, and the Proprietor of M/s.Jehovah Trans. It is stated that he has borrowed a sum of Rs.1,30,50,000/- (Rupees One Crore Thirty Lakhs and Fifty Thousand only) for his business purpose. For discharging the above said loan, the petitioner has issued 12 cheque leaves to the respondent. It is stated that when the respondent deposited the cheques, the cheques were returned as 'insufficient funds'. The petitioner filed a petition in Cr.M.P.No.1102 of 2016 before the learned Judge, Fast Track Court (Magisterial Level), Tuticorin for joint trial of all the five cases together to establish that the complainants have no source of income to pay such a huge amount of Rs.1,30,50,000/- (Rupees One Crore Thirty Lakhs and Fifty Thousand only). The petition was dismissed by the lower Court.



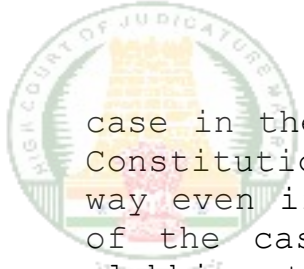
4. On the side of the petitioner, it is stated that the petitioner has fundamental rights under Article 21 Constitution of India to have a fair trial. The reasons for the decision of dismissal given by the trial Court are not acceptable. The complainants viz., D. John Ponnaiah and Vimala are husband and wife and the loan was obtained for the promotion of some business. The legal notice was issued on the same day and all the five cases are instituted within the same year and the cause of action is the same and hence, the dismissal of the order passed in Cr.M.P.No. 1102 of 2016 is incorrect.

5. On the side of the petitioner, it is further stated that under Section 219 Cr.P.C., for three cases in C.C.No.213 of 2014, 24 of 2014 and 25 of 2014 and quash petitions in Crl.O.P.Nos.14005 to 14007 of 2016 were admitted and an interim stay was already granted in those petitions and the stay order is not a bar for the lower Court to consider his petition.

6. On the side of the respondent, it is stated that two cases are filed by the wife and three cases are filed by the husband. It does not mean that they are connected. The petitioner has already filed a revision petition and the same was dismissed by this Court. Suppressing the fact, the petitioner has come forward with this petition. When the Crl.O.Ps. were admitted, the interim stay was granted for a period of three weeks till 09.08.2016. The petitioner has paid a sum of Rs.1,00,000/- (Rupees One Lakh only) in the Lok Adalath but failed to pay the balance amount. The petitioner has filed the petition for joint trial in Cr.M.P.No.1102 of 2016.

7. Records perused. The lower Court has passed an order in Cr.M.P.No.1102 of 2016 dated 28.09.2016 stating that the C.C.Nos.25, 24 and 213 of 2014 were instituted against M/s.Vimal Shipping Agencies, D.Baskaran, Vimala and A.M.Rajesh, C.C.Nos.214 and 212 of 2014 were instituted against Jehova Transport and this petitioner and that the loan amount, Cheque numbers, the dates on which the cheques were issued were all different and that the petitioner/accused stated that in order to disprove the source of income of the complainant he has filed this petition for joint trial and that he can very well question the source of Income of the Complainant during trial stage not at the beginning of this case by filing this petition and that apart from the fact that the complainant in C.C.Nos.25 and 213 of 2014 D. John Ponnaiah and the complainant in C.C.Nos.214 and 24 of 2014 Vimala are Husband and Wife, there is no underlying thread to connect all these cases. Moreover, C.C.Nos.213, 24 and 25 of 2014 were stayed by this Court in Crl. O.P.Nos.14005 to 14007 of 2016.

<https://hcservices.ecourts.gov.in/hcservices/> 8. The only point raised by the petitioner is that the petitioner is going to question the source of income of the complainants. The petitioner will be given chance to put forth his



case in the lower Court. His fundamental right under Article 21 of Constitution of India for fair trial will not be curtailed in any way even if there is separate trial in all these cases. When three of the cases are stayed by the High Court, there is no use in clubbing two more cases along with the cases already stayed. If all the five cases are posted together for joint trial, there will be undue delay in the trial proceedings. There is no merit in this petition. The reasons stated in the affidavit are not satisfactory enough to interfere with the order passed by the lower Court. Hence, this criminal revision case is dismissed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

The Judge, Fast Track Court (Magisterate Level),
Thoothukudi.

+1cc to Mr.S.Siva Ilayaraja, Advocate Sr.No.69221

MRN

VB/PN/SAR2/03.07.2018/3P/3C

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21.06.2018