



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.04.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

Cr1.O.P (MD) No.21903 of 2013

and

M.P. (MD) Nos.1 and 2 of 2013

C.Sajith Lovely

... Petitioner

Vs.

Yesurajan

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. to set aside the order passed in Criminal Revision Petition No.11 of 2013 on the file of the Sessions Court, Kanyakumari at Nagercoil dated 23.08.2013 confirming the order passed in Cr.M.P.No.4453 of 2013 in S.T.C.No.1309 of 2011 on the file of the Judicial Magistrate No.1, Kuzhithurai dated 20.06.2013 and quash the same.

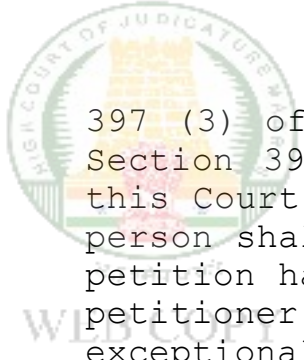
For Petitioner : Mr.R.Manimaran

ORDER

The petitioner is the accused in S.T.C.No.1309 of 2011 on the file of the Judicial Magistrate No.1, Kuzhithurai. It is a case arising under Section 138 of the Negotiable Instruments Act. He took out Cr.M.P.No.4453 of 2013 to send for the account chart of the respondent / complainant for the period from 01.09.2010 to 31.03.2011 from his bank account in Canara Bank Marthandam Branch. The learned Judicial Magistrate by order dated 20.06.2013 dismissed the said petition.

2.When his petition was dismissed by the learned Trial Magistrate, the accused had an option to move the Sessions Court or this Court. The accused chose to move the Sessions Court by filing Cr1.R.C.No.11 of 2013. The said criminal revision petition was dismissed on 23.08.2013. Questioning the same, this petition was filed under Section 482 of Cr.P.C.

3.When the petitioner had already availed his revisional remedy before the Sessions Court, the bar set out under Section



397 (3) of Cr.P.C. will come into play. If an application under Section 397(3) of Cr.P.C. has been made by any person either to this Court or Sessions Court, no further application filed by same person shall be entertained by the other of them. Of course, this petition has been filed under Section 482 of Cr.P.C. But then the petitioner will have to show that his case falls under an exceptional category.

4.No such ground has been made out. Therefore, this petition is dismissed, in view of the bar set out under Section 397(3) of Cr.P.C. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar

To

1. The Sessions Judge,
Kanyakumari at Nagercoil.
2. The Judicial Magistrate No.1,
Kuzhithurai.

+ 1 CC TO Mr.R,MANIMARAN, ADVOCATE IN SR No. 60576

MYR
TE/JC/SAR-2 : 27/04/2018 : 2P/4C

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