

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2019

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.16325 of 2013 and
Crl.M.P.No.1 of 2013

M/s.KRG Kandasamy Textiles,
A firm by its partner K.R.G.Kandasamy,
No.7/4, Mariamman Koil Main Road,
Gugai,
Salem-636 006. Petitioner

Versus

K.Sudarsan Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 22.03.2013 made in C.R.P.No.52 of 2012 on the file of the I Additional District and Sessions Court, Salem, confirming the order dated 11.09.2012 made in C.M.P.No.5643 of 2012 in S.T.C.No.24 of 2011 on the file of the Judicial Magistrate No.III, Salem.

For Petitioner : M/s.T.Murugamanickam
For Respondent : M/s.P.Mani

ORDER

This Criminal Original Petition has been filed to set aside the order dated 22.03.2013 made in C.R.P.No.52 of 2012 on the file of the I Additional District and Sessions Court, Salem, confirming the order dated 11.09.2012 made in C.M.P.No.5643 of 2012 in S.T.C.No.24 of 2011 on the file of the Judicial Magistrate Court No.III, Salem.

2.During the trial in S.T.C.No.24 of 2011, for cross-examination of PW1 notice has been issued by the respondent to the petitioner, to produce the documents and the same also produced on 02.03.2012. Based on the documents further cross-examination of PW1 was made and Exs.D1 to D7 were marked on the side of the defence. During the relevant time, the petitioner failed to produce the Books of Accounts and thereafter the cross-examination of PW1 has been closed. Therefore, the petitioner has filed petition under Section 311 of Cr.P.C in C.M.P.No.5643 of 2012 before the learned Judicial Magistrate No.III, Salem to recall PW1 and to produce documents. The learned Judicial Magistrate No.III, Salem by its order dated 11.09.2012 dismissed the petition. Against

which the petitioner preferred C.R.P.No.52 of 2012 before the learned I Additional District and Session Judge, Salem and the same came to be dismissed on 22.03.2013 by confirming the order of the trial Court. Against which the present petition.

3.The learned counsel for the petitioner would submit that it is a business transaction between the petitioner and the respondent, which has been recorded in the Books of Accounts, it would go to prove the case of the petitioner.

4.The learned counsel for the respondent would submit that till today the petitioner is not certain about what are the Books of Accounts, of which year the same has to be marked. Further it has been submitted that the petitioner has filed this petition to fill up the lacuna and the same cannot be allowed.

5.It is seen that the case is filed under Section 138 of the Negotiable Instruments Act. The cheque has been issued during the business transaction between the parties. Hence, the trial Court is directed to fix a date for recalling the evidence of PW1, on which date the petitioner is directed to furnish the copies of the said documents in advance which he proposes to mark. Further, the learned counsel for the respondent is directed to cross-examine the witness on the same day without any further delay.

6.Since the case is of the year 2011, the trial Court is directed to complete the proceedings in S.T.C.No.24 of 2011 within a period of three months from the date of receipt of a copy of this order.

7.With the above said directions, this Criminal Original Petition is disposed of. Consequently the connected miscellaneous petition is closed.

-s/d-
सत्यमेव जयते

Assistant Registrar (CS-I)

True Copy

Sub-Assistant Registrar

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To

The Judicial Magistrate No.III,
Salem.

+1 CC to M/s.P.Mani, Advocate sr 74718

+1 CC to M/s. D. Sathya, Advocate sr 75382.

CRL.O.P.No.16325 of 2013

RGN (CO)

<https://hcservices.courts.gov.in/hcservices/>
SP (12/11/2019)