IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.01.2019
CORAM:
THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH
Crl.O.P.No.1267 of 2019
and Crl.M.P.No.820 of 2019

M.Sundaralingam ...Petitioner

Vs.

Ramasamy ...Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the common order dated 05.01.2019 passed in C.M.P.No.51 of 2019 in S.T.C.No.100 of 2016 on the file of the learned Fast Track Magistrate Level No.II, Poonamalle, Thiruvallur District.

For Petitioner : Mr.K.Chozhan

O R D E R

This Criminal Original Petition has been filed challenging the order passed by the Court below dismissing the petition filed under Section 311 of Cr.P.C., to recall PW1 for further cross-examination.

2. The Court below has dismissed the petition on the ground that the petitioner has already sufficiently cross-examined PW1 and already there is a direction given by this Court to complete the proceedings within a period of two months.

3.The learned counsel for the petitioner would submit that in the course of the cross-examination, the complainant had deposed that the amount that was given to the petitioner as loan was shown in the income tax returns. The income tax returns were not however filed before the Court. Therefore, the petitioner filed a petition under Section 91 of Cr.P.C., for a direction to the respondent to produce the income tax returns. This petition was dismissed by the Court below on the ground that the complainant had taken a stand that it is not available with him and therefore, the Court below gave liberty to the petitioner to call for the documents from the appropriate authorities. The learned counsel submitted that the petitioner has taken all steps to make the respondent to produce the income tax returns and the books of accounts and the respondent has failed to produce the same before the Court. Therefore, the petitioner filed the present petition to recall PW1 in order to ascertain the PAN Number of the petitioner in order to make an attempt to get the income tax returns filed by the respondent during the relevant point of time.

4. It is seen from the records that the petitioner has sufficiently cross-examined PW1. The petitioner has also taken all the efforts to make the respondent produce income tax returns and the books of accounts that were maintained during the relevant point of time. If the respondent fails to produce the books of accounts and the income tax returns, it is for the petitioner to draw the attention of the Court below to take adverse inference. This cannot be a ground for the petitioner to again recall PW1 for the purpose of ascertaining the PAN Number. The Court below has given sufficient reasons for rejecting the petition filed by the petitioner and this Court does not find any illegality or infirmity in the order passed by the Court below. The petitioner is at liberty to raise all these grounds before the Court below and the Court below shall consider the same on its own merits and in accordance with law.

5. In the result, this Criminal Original Petition is dismissed and the Court below is directed to complete the proceedings within a time stipulated by this Court in Crl.O.P.Nos.27439 of 2016 and 13978 of 2016. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vsa/rli

To
The Fast Track Magistrate Level No.II,
Poonamalle,
Thiruvallur District.

+1cc to Mr.K.Chozhan, Advocate, S.R.No.4342

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RSV(CO)
GSP(07/02/2019)