

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2019

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.27409 of 2013 and
CRL.M.P.No.1 of 2013

T.R.Mahalingam

... Petitioner

Vs.

A.Chockalingam

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 26.08.2013 passed in Crl.M.P.No.3697 of 2013 in S.T.C.No.297 of 2012 on the file of the Fast Track Court II (Magistrate Level) Erode.

For Petitioner : M/s.S.Kaithamalai Kumaran
For Respondent : M/s.V.Regunathan

ORDER

This Criminal Original Petition has been filed to set aside the order dated 26.08.2013 passed in Crl.M.P.No.3697 of 2013 in S.T.C.No.297 of 2012 on the file of the Fast Track Court No.II (Magistrate Level) Erode, thereby, dismissing the petition filed by the petitioner under Section 91 Cr.P.C.

2.The petitioner is an accused in S.T.C.No.297 of 2012 on a private complaint filed by the respondent for the offence under Sections 138 and 142 of the Negotiable Instruments Act before the Fast Track Court No.II (Magistrate Level) Erode. The petitioner borrowed a sum of Rs.2 lakhs from the respondent. In discharge the liability, the petitioner issued a post dated cheque drawn on Indian Overseas Bank, Karumandisellipalayam Branch bearing No.550724 dated 11.02.2012. When the respondent presented the cheque for collection, but it was dishonored on 24.04.2012 for the reason that funds insufficient. The

respondent issued a statutory notice dated 26.04.2012 to that effect, but the petitioner neither replied to the same nor made the payment. Hence, he filed a private complaint in S.T.C.No.297 of 2012.

3.The learned counsel for the petitioner would submit that the petitioner is practicing as advocate in Perundurai. The respondent's daughter Sobachithra was a stamp vendor in the petitioner's office, since she did not have separate place for her business and she accommodated in the petitioner's room. Taking advantage by accessing the petitioner's room, the said Sobachithra has stealthy taken the cheque of the petitioner and misused it through the respondent and filled up the same and foisted a false case against him. He would further submit that the petitioner has denied the transaction with the respondent and he is not guilty of any offence alleged by the respondent. Hence, the petitioner to prove his innocence has sought for the document from the District Registrar, Karungalpalayam to produce the ledger of Shobachithra for the period of 2009-2010, by filing the petition under Section 91 of Cr.P.C before the Court below. The Court below by order dated 26.08.2013 dismissed by the petition in Crl.M.P.No.3697 of 2013 in S.T.C.No.297 of 2012. Against which the present Criminal Original Petition has been filed.

4.The learned counsel for the respondent would submit that the petitioner being an advocate, who has known about the receipt of the statutory notice dated 26.04.2012, he did not send any reply for the same and no complaint was given against the daughter of the respondent. Hence the production of the documents sought for will serve no purpose to this case. He would further submit that the petitioner can get into the box and examine himself to prove his case. By filing the above petition he has been successfully stalling the proceedings of the trial for the past seven years.

5.This Court is not able to find any illegality or infirmity in the order passed by the Court below. There are absolutely no grounds to interfere with the order passed by the Court below.

6.In the facts and circumstances of the case, this Court finds no merits in this Criminal Original Petition and accordingly the same is dismissed. Consequently, the connected Miscellaneous Petition is also closed.

7.The Court below is directed to complete the proceedings in S.T.C No.297 of 2012, within a period of three months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Fast Track Court II (Magistrate Level),
Erode.

+1 cc to M/s.A.K.Kumarasamy,Advocate Sr.No. 64027

+1 cc to M/s.V.Regunathan,Advocate Sr.No.63979

CRL.O.P.No.27409 of 2013

सत्यमेव जयते

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