

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.1325 of 2019
and
Crl.M.P.No.867 of 2019

Anandharajan ...Petitioner /Complainant

Vs.

A.S.Palanivelu ...Respondent/Accused

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order made in CMP No.4650 of 2018 in STC No.1360 of 2015 dated 16.11.2018 by the learned Judicial Magistrate IV, Salem.

For Petitioner : Mr.S.Ganeshkumar

For Respondent : No Appearance

ORDER

This Criminal Original Petition has been filed by the petitioner under Section 482 Cr.P.C., in CMP No.4650 of 2018 in STC No.1360 of 2015 by the learned Judicial Magistrate IV, Salem and set aside the dismissal order dated 16.11.2018 filed under Section 311 of Cr.P.C.

2.The learned counsel appearing for the petitioner would submit that the petition has been filed by the petitioner before the Trial Court to recall and reopen the evidence of DW2 and seeking to produce the bank statement from the Canara Bank, M.Palapatti Branch, Salem District-636 998 pertaining to the year 2014 i.e. from 01.01.2014 to till date to support the prosecution and the same was dismissed on the ground that the petitioner has filed the petition only to protract the proceedings. Hence, seeks for appropriate orders to set aside the same.

3.Heard the learned counsel for the petitioner. No one appeared on behalf of the respondent.

4.It is seen from the records that the petitioner has filed a private complaint under Section 200 of Cr.P.C. R/w 138 & 142 of Negotiable Instruments Act 1881 as amended Act 55 of 2002 as against the respondent. On the said complaint, the petitioner examined himself as PW1 and on the side of defence, DW2 i.e. the Bank Manager of the petitioner was examined and produced the statement of Accounts of the petitioner for the period commencing from 01.01.2015 to 31.07.2015. During DW2's examination the statement of accounts of the petitioner marked was only from the year 2015 but the petitioner wants to mark the statement of accounts from the year 2014. Hence, this Court is of the opinion that the petitioner may be granted one more opportunity to examine DW2 and shall mark his statement of accounts from 01.01.2014 to till date.

5.Considering the facts and circumstances of the case, this Court is inclined to set aside the order passed by the learned Judicial Magistrate IV, Salem in CMP No.4650 of 2018 in STC No.1360 of 2015 dated 16.11.2018. Accordingly, the Criminal Original Petition stands allowed.

6.The petitioner is hereby permitted to cross examine DW2 on the next date of hearing and mark his statement of accounts from 01.01.2014 till 14.02.2019 after the payment of necessary charges failing which the Trial Court shall proceed the matter further in accordance with law. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate IV
Salem

+1cc to Mr. N.Ilangovan, Advocate, S.R.No. 13508
+1cc to Mr. S.Ganesh Kumar, Advocate, S.R.No. 13191

Cr1.O.P.No.1325 of 2019
and
Cr1.M.P.No.867 of 2019

SJ(CO)
GN(11/03/2019)