

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.1887 of 2019

1.K.R.Srinivasan

2.M/s.Niton Tea Company
Door No.19/69, Donnington
Kotagiri, Represented by
Mr.K.R.Srinivasan

... Petitioners/Accused

Vs.

M/s.Imperial Tea Company (P) Limited
Door No.138, Grays Hill
Coonoor, The Nilgiris
Represented by its Chairman and
Authorised Signatory
Mr.R.B.Subramani

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the order dated 21.12.2018 passed by the learned Judicial Magistrate, Fast Track Court, Coonoor in C.M.P.No.2073 of 2018 in C.C.No.58 of 2013.

For Petitioners : Mr.L.Mouli

For Respondent : Mr.B.Kumarasamy

ORDER

This Criminal Original Petition has been filed by the petitioners under Section 482 Cr.P.C. to set aside the order dated 21.12.2018 passed by the learned Judicial Magistrate, Fast Track Court, Coonoor in C.M.P.No.2073 of 2018 in C.C.No.58 of 2013.

2.The learned counsel for the petitioner would submit that the respondent herein filed a complaint under Section 138 of Negotiable Instruments Act against the petitioners before the learned Judicial Magistrate, Coonoor in C.C.No.58 of 2013 with allegations that the petitioners are liable to pay a sum of Rs.50,04,393/- and issued a cheque on 10.10.2011 at Coonoor, bearing No.023723, dated 10.11.2011, drawn on Central Bank of India, Coonoor Branch, for the said amount of Rs.50,04,393/- and further alleged that the 1st petitioner issued a notice dated 31.10.2011 seeking to return the three unfilled cheques and also informed that the closure of company as well as the bank account

in the year 2005 and when the respondent presented the said cheque on 11.11.2011, the same was returned as "funds insufficient", thereafter, a statutory notice dated 15.11.2011 was issued to the petitioners.

3.The learned counsel would further submit that after receipt of the summons, the petitioners appeared and the respondent was examined as PW1 and the petitioner has cross examined him and after complainant side evidence was closed and after questioning under Section 313 of Cr.P.C. the case was posted for petitioner's side evidence. The petitioners submit that on 03.08.2018, they filed a memo stating the list of witnesses to be examined on their side i.e. The Branch Manager, Central Bank of India, The Chief Executive Director and the Commercial Tax Officer, Coonoor Range. Thereafter, the petitioners filed application under Section 91(1) Cr.P.C. in C.M.P.No.2073 of 2018 before the learned Judicial Magistrate, Fast Track Court, Coonoor to direct the Branch Manager, Central Bank of India, Coonoor Branch to produce records and details of the date of closure of the account of M/s.Niton Tea Company, Kotagiri at their branch and also to give evidence regarding the same. The said petition was dismissed on 21.12.2018. Aggrieved by the same, the petitioners have preferred this petition.

4.It is seen that the Branch Manager is none other than the Manager of the Central Bank of India, Coonoor branch, where the petitioners have their account. Considering the facts and circumstances of the case, the order dated 21.12.2018 passed by the learned Judicial Magistrate, Fast Track Court, Coonoor in C.M.P.No.2017 of 2018 in C.C.No.58 of 2013 is hereby set aside.

5.The Trial Court is hereby directed to issue summons to the Branch Manager of Central Bank of India, Coonoor Branch to produce the records pertaining to the petitioners' account before the Trial and examine him on behalf of the defence side. The said process shall be completed within a period of four weeks from the date of receipt of a copy of this order. The Trial Court is also hereby directed to complete the trial and dispose of the case within a period of six weeks thereafter.

6.Accordingly, this Criminal Original Petition stands allowed.

Sd/-

Assistant Registrar (Insp Cell)

//True Copy//

Sub Assistant Registrar

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To.

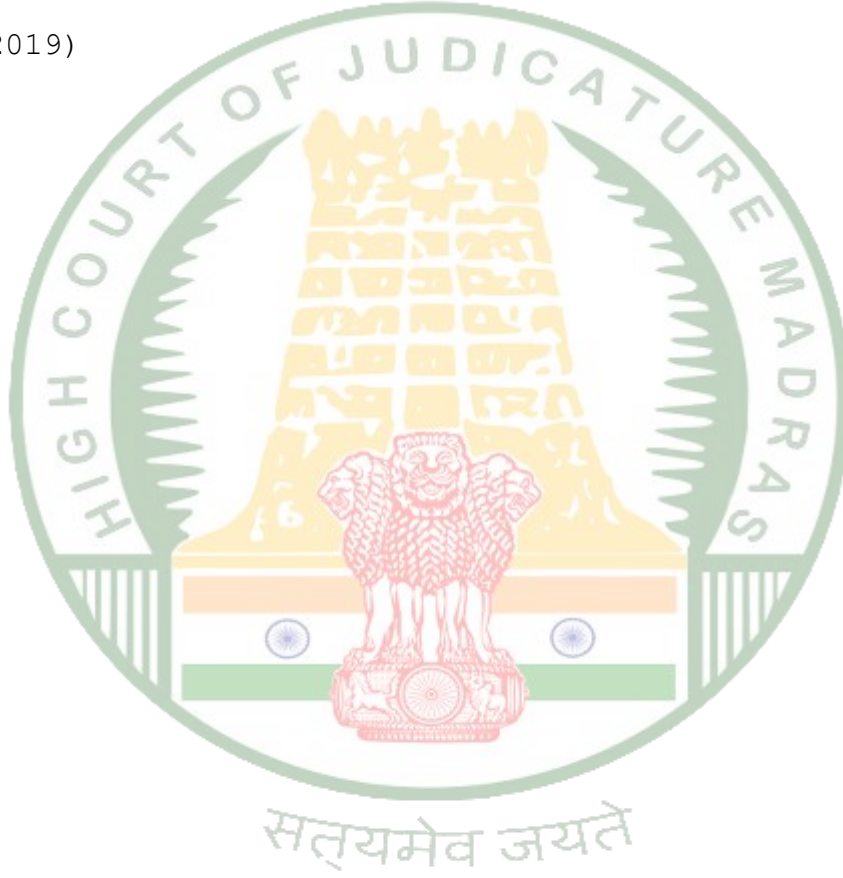
The Judicial Magistrate
Fast Track Court
Coonoor

+1cc to Mr.L.Mouli, Advocate, S.R.No.36754

+1cc to Mr.B.Kumarasamy, Advocate, S.R.No. 37019

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GN (29/05/2019)



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