

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.Nos.4652,4654,4656 & 4657 of 2019

and

Crl.M.P.No.2759 of 2019

Ravichandran
S/o.Kalaiannan.

... Petitioner
in all Crl.O.Ps.

Vs.

D.Shanmugam,
S/p.Mr.Devarayapillai.

... Respondent
in all Crl.O.Ps.

Crl.O.P.No.4652 of 2019:

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the Judicial Magistrate No.III, Salem to number the petition under Section 45 of Evidence Act and 243(1) Cr.P.C to send Ex.P.1 and Ex.P.5 to the Director of Forensic Laboratory, Chennai through Advocate Commissioner as nominated by this Hon'ble Court and to file report in S.T.C.No.787 of 2017 on the file of the Judicial Magistrate No.III, Salem.

Crl.O.P.No.4654 of 2019:

Criminal Original Petition filed under Section 482 Cr.P.C. to direct Judicial Magistrate No.III, Salem, to number the petition under Sec.315 Cr.P.C., for examination of the petitioner as a defence witness in S.T.C.No.787 of 2017 on the file of Judicial Magistrate No.III, Salem.

Crl.O.P.No.4656 of 2019:

Criminal Original Petition filed under Section 482 Cr.P.C. to direct Judicial Magistrate No.III, Salem, to number the petition to order for enquiry regarding the manipulation of court orders namely deposition of P.W.1 in STC.No.787 of 2017 on the file of Judicial Magistrate No.III, Salem.

Cr1.O.P.No.4657 of 2019:

Criminal Original Petition filed under Section 482 Cr.P.C. to direct Judicial Magistrate No.III, Salem, to number the petition under Section 91 Cr.P.C., to give the correct and full particulars of the company wherein his son is working, in STC No.787 of 2017 on the file of Judicial Magistrate No.III, Salem.

For Petitioner : Mr.S.Kalayanaraman

For Respondent : No appearance

COMMON ORDER

The petitioner has borrowed Rs.5 Lakhs from the defacto complainant on 24.02.2017 as hand loan and had issued a post dated cheque dated 24.07.2017 and also agreed to repay the said loan along with interest at the rate of 24% per hundred per annum within three months from the date of borrowal. He did not repay the loan instead informed the defacto complainant to present the cheque on or after 24.07.2017. Hence, the complainant presented the cheque for payment on 24.07.2017, but it was returned as "Funds insufficient" on 08.08.2017. Hence, the complainant sent a legal notice on 02.09.2017 and the same was received by the petitioner/accused on 06.09.2017, but failed to repay the loan. Hence, the respondent/complainant lodged a complaint under Section 138 N.I. Act before the Judicial Magistrate No.III, Salem in S.T.C.No.787 of 2017. Thereafter, the petitioner/accused has filed criminal miscellaneous petitions (1) to number the petition under Section 45 of Evidence Act and 243(1) Cr.P.C to send Ex.P.1 and Ex.P.5 to the Director of Forensic Laboratory, Chennai through Advocate Commissioner (2) to number the petition under Sec.315 Cr.P.C., for examination of the petitioner as a defence witness in S.T.C.No.787 of 2017 (3) to number the petition to order for enquiry regarding the manipulation of court orders namely deposition of P.W.1 and (4) under Section 91 of Cr.P.C., seeking to give the correct and full particulars of the company, where the respondent's son is working. However, the learned Judicial Magistrate No.III, Salem has returned the applications on 30.11.2018, stating that it is not in a proper format. Hence, the petitioner has filed the present petitions with the aforesaid prayer.

2.Heard Mr. S.Kalayanaraman, learned counsel for the petitioner.

3.It is seen that the petitioner has filed a petition

under Section 45 of Evidence Act to send Ex.P.1 and P5 to the Forensic Laboratory, for scientific examination and expert opinion and the same was returned by the learned Judicial Magistrate No.III, Salem on 30.11.2018. Though, it was re-presented again, it was returned for the reasons not complied with the provisions of law.

4.Considering the facts and circumstances, without going into the merits of the case, the learned Judicial Magistrate No.III, Salem, is directed to take up the petitions on file and proceed and pass orders on merits and in accordance with law.

5.Accordingly, these Criminal Original Petitions are allowed. Connected miscellaneous petition is also closed.

6.The Registry is directed to return the original petitions, records filed before this Court after getting necessary attested copies and acknowledgement.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Rm

To

1. The Judicial Magistrate No.III,
Salem.

2. The Public Prosecutor,
High Court, Madras.

+4cc to Mr.S.Kalyanaraman, Advocate, S.R.No. 15859, 15860,
15861, 15858

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and

CrI.M.P.No.2759 of 2019

GN(08/03/2019)