

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.14816 of 2019

S.Anandan

...Petitioner/Petitioner/Respondent

Vs.

Dhanalakshmi

...Respondent/Respondent/Appellant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to set aside the order passed in C.M.P No.190 of 2019 in C.A.No.23 of 2018, dated 11.04.2019 on the file of the III Additional District Court, Salem.

For Petitioner : Mr. C.Prakasam

For Respondent : Mr. E.Kannadasan

ORDER

This petition has been filed challenging the order passed by the Court below dismissing the petition filed under Section 391 of Cr.P.C by the petitioner, to furnish certain documents as additional evidence.

2. The petitioner faced trial for an offence under Section 138 of Negotiable Instruments Act. The trial Court acquitted the petitioner and the same was reversed by appellate Court in Criminal Appeal No.23 of 2018. Aggrieved by the same, the petitioner filed Crl.R.C No.313 of 2019 before this Court. The Criminal Revision Petition was allowed by this Court by an order dated 14.03.2019 and the judgment passed by the appellate Court was set aside and the matter was remitted back to the appellate Court for fresh consideration.

3. After the matter got remitted before the appellate Court, the petitioner filed a petition under Section 391 of Cr.P.C in order to produce certain documents as additional evidence. The Court below dismissed the said petition mainly on the ground that the documents sought to be produced are all photo copies of the documents and that the said documents will not have any bearing in the present case. The Court below also took into consideration the fact that this Court had already

fixed a time limit for the completion of the appeal.

4. Mr. C.Prakasam, the learned counsel appearing on behalf of the petitioner submitted that the documents that were sought to be marked as additional evidence are the judgments and depositions of the connected cases, which will have a bearing in the present appeal and therefore, the petitioner must be given an opportunity to mark those documents as additional evidence. The learned counsel further submitted that since time has already been fixed by this Court for completion of proceedings, the petitioner will not drag on the proceedings any further.

5. The learned counsel appearing on behalf of the respondent submitted that the petitioner is trying to drag on the proceedings and the documents which are sought to be marked as additional evidence will not have any bearing in the present case. The learned counsel further submitted that the petitioner wanted to mark the photo copies of the documents and therefore, the Court below did not permit the petitioner to mark those documents.

6. This Court has carefully considered the submissions made on either side and the materials available on record.

7. Taking into consideration the facts and circumstances of the case, this Court finds that no prejudice will be caused to the respondent, if four documents are permitted to be marked as additional evidence. They are, a) the judgment in STC No.2 of 2017, b) the judgment in S.T.C No.80 of 2015, c) deposition of DW2 in STC No.80 of 2015 and d) Bank statement for the period from 01.01.2007 to 28.12.2011, which was already marked in the earlier proceedings.

8. All the above said documents pertain to the earlier Court proceedings. Therefore, the petitioner can always get a certified copy of the same and file it before the appellate Court to be marked as additional evidence.

9. The relevancy of those documents can always be independently considered by the appellate Court after recording the objections of the respondent.

10. The order passed by the Court below in C.M.P No.190 of 2019, dated 11.04.2019 is partly set aside and the petitioner is directed to file the certified copy of the above said 4 documents and the relevancy and the admissibility of the same can be independently considered by the appellate Court.

11. It is made clear that this Court has already fixed a time limit for the disposal of the case in Crl.M.P No.6992 of 2019, by an order dated 11.06.2019. The time limit fixed by this Court shall be strictly complied with by the appellate Court.

12. This Criminal Original Petition is disposed of accordingly.

Sd/-
Assistant Registrar (Insp.Cell)

//True Copy//

Sub Assistant Registrar

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To

The III Additional District Judge,
Salem.

+1 cc to Mr.C.Prakasam, Advocate, S.R.No.55136

+1 cc to Mr.E.Kannadasan, Advocate, S.R.No.55118

CRL.O.P No.14816 of 2019

PP(CO)
SSM(03/07/2019)



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