

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :11.06.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Cr1.O.P.No.25322 of 2017
and
Cr1.M.P.No.14582 of 2017

S.Asgar Ali

... Petitioner

Vs.

S.Jamal

.... Respondent

Prayer: This Criminal Original Petition filed under Section 482 of Cr.P.C. praying to allow the Criminal Original Petition and set aside the Order passed in M.P.No.1676 of 2017 in C.C.No.3579 of 2013 on the file of the III Metropolitan Magistrate, George Town, Chennai dated 05.10.2017.

For Petitioner : Mr.C.K.M.Appaji

For Respondent : Mr.G.Velu

ORDER

This petition has been filed challenging the order passed by the Court below dismissing the application filed by the petitioner under Section 91 of Cr.P.C directing the complainant to produce certain documents.

2. The petitioner is facing trial before the Court below for an offence under Section 138 of the Negotiable Instruments Act. During the course of trial, the petitioner filed the present petition under Section 91 of Cr.P.C for a direction to the respondent to furnish certain documents. The petition was dismissed by the Court below on the ground that the documents that have been sought to be produced are in relation to the business run by the complainant and it is no way related to the personal transaction between the petitioner and the respondent.

3. The learned counsel for the petitioner submitted that the respondent during his cross-examination, has admitted that he is doing business in Tamil Nadu and Andhra and he is exporting to foreign countries like Hong Kong and Singapore. The respondent has also stated that he has borrowed money and he has given loan to the petitioner and that he is also an income-tax

assessee. Therefore, the petitioner wanted to establish the fact that the petitioner did not take any loan from the respondent and if at all any loan has been taken, the same would have been reflected in the income-tax returns filed by the respondent.

4. The learned counsel for the respondent submitted that this petition has been filed only to drag on the proceedings and the documents sought for by the petitioner are not relevant for the purpose of deciding the case. The learned counsel further submitted that the petitioner earlier filed a petition in CrI.OP.No.2036 of 2014 and the same was dismissed by this Court by order dated 12.08.2014. The petitioner is attempting to protract the proceedings by filing one petition after another.

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

6. The respondent has taken a stand that he is an income-tax assessee and that he has filed the income-tax returns every year. The petitioner has requested the respondent to furnish the income-tax returns. If the returns are not furnished, the respondent cannot be compelled to furnish the same and it is left open to the Trial Court to draw inference on the non-filing of the income-tax returns. In so far as the documents that are sought for by petitioner, this Court is in complete agreement with the order passed by the Court below to the effect that those documents have no connection whatsoever with the dispute between the petitioner and the respondent which pertains to the personal loan that is said to have been given by the respondent to the petitioner.

7. This Court does not find any illegality or infirmity in the order passed by the Court below and there are absolutely no grounds to interfere with the same.

8. In the result, the Criminal Original Petition is dismissed and the Court below is directed to complete the proceedings in C.C.No.3579 of 2013, within a period of two months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is dismissed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vv/kal

To

1. The III Metropolitan Magistrate,
George Town, Chennai
2. The Public Prosecutor,
High Court of Madras,
Chennai.

Crl.O.P.No.25322 of 2017
and
Crl.M.P.No.14582 of 2017

ks (co)
CSL/11.07.2019



WEB COPY