



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.06.2019

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Crl.O.P. (MD)No.6493 of 2019

and

Crl.M.P (MD) .No.4327 of 2019

1.Muruganantham

2.Palanichamy

... Petitioners/Petitioners/
Accused Nos.1 & 2

Vs.

Vijay Nanthakumar

... Respondent/Respondent/
Complainant

Prayer: This Criminal Original Petition has been filed under Section 482 Cr.P.C. to call for the records from the lower Court and to set aside the order passed by the learned Judicial Magistrate No.I, Trichy in Crl.M.P.No.1861/2019 dated 23.04.2019 and consequently allow the petition filed by the petitioner and to proceed the case in accordance with law.

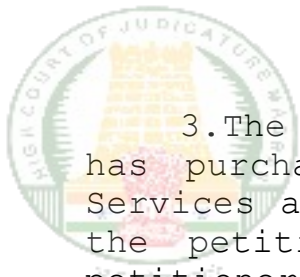
For Petitioner	: Mr.V.Kathirvelan Senior Counsel for Mr.K.Prabhu
For Respondent	: Mr.C.Vakeeswaran

ORDER

This Criminal Original Petition has been filed to set aside the order passed by the learned Judicial Magistrate No.I, Trichirappalli in Crl.M.P.No.1861 of 2019 dated 23.04.2019

2.The brief facts leading to filing the present petition:-

2.1. The respondent herein lodged a complaint against the petitioners for the offences under Sections 457 and 380 I.P.C., Earlier, a negative final report has been filed, based on that, protest petition filed by the respondent/complainant and the matter was taken on file in C.C.No.306 of 2016, in which, the trial has been commenced and the witnesses have also been examined.



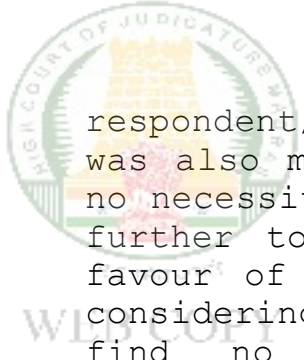
3.The specific case of the respondent/complainant is that he has purchased four C.C.T.V Camaras from one Sky Communication Services and installed it in his house, now it has been stolen by the petitioners/accused. During the course of the trial, the petitioners/accused had examined one Yoganathan, the owner of the Sky Communication Services as D.W.1. During the course of his evidence, he admitted that he has sold the C.C.T.V camaras in favour of the respondent/complainant, and further he has stated that he also issued a receipt for selling the said cameras to the respondent/complainant which was earlier marked as Exhibit P.1 by the prosecution side. Thereafter, the petitioners herein have filed an application in Cr.M.P.No.1861 of 2019 under Section 91 of Cr.P.C., seeking for a direction to issue summon to one Rajasekaran, auditor of D.W.1 and the Commercial Tax Officer, Trichirappalli to produce the Bill Book, Purchase Receipt, Day Book, Ledger Stock Book, Voucher Book and Tax Assessment payment details of Sky Communication Services to prove that D.W.1 did not sell the C.C.T.V Camaras in favour of the respondent/complainant and the said application has been dismissed by the learned Judicial Magistrate No.I, Trichy. Against which the present Criminal Original Petition has been filed.

4.Mr.V.Kathirvelan, learned Senior Counsel appearing for the petitioners would contend that, D.W.1 during the course of his evidence has categorically admitted that he is having TIN number for his business and he is also maintaining the Bill Book, Purchase Receipt, Day Book, Ledger Stock Book and further he deposed that he had handed over all the documents to his Auditor. Hence by producing all those documents only, it can be verified whether D.W.1 has sold the camaras to the respondent/complainant, whereas the learned Judicial Magistrate without considering all those facts, dismissed the petition.

5.On the other hand, Mr.C.Vakeeswaran, learned counsel appearing for the respondent would submit that the respondent/complainant has purchased four C.C.T.V Camaras from D.W.1, Yoganathan and the purchased receipt was marked as Exhibit P1. That apart, he has also produced the D.V.D to show that the petitioners have stolen the C.C.T.V Camaras. After analysing the evidence and documents, the learned Judicial Magistrate No.I, Trichy has dismissed the application. After closure of the entire evidence, the present application has been filed by the petitioners only with an intention to drag on the proceedings.

6.I have considered the rival submissions.

7.It is seen from D.W.1 evidence, he has stated that he has sold the C.C.T.V to the defacto complainant and he is maintaining ~~the bill book, purchase receipt, day book, ledger stock book, voucher book and tax assessment payment details of Sky Communication Services~~ for payment of commercial tax. D.W.1 is the witness produced by the petitioners/accused and he has categorically admitted that he has sold the C.C.T.V Camaras in favour of the



respondent/defacto complainant and the receipt of the said sale was also marked as Ex.P.1. In the above circumstances, there is no necessity to examine the Auditor and the Commercial Tax Officer further to prove whether the C.C.T.V cameras have been sold in favour of the respondent. The learned Judicial Magistrate after considering all those things, rightly dismissed the petition. I find no infirmity or irregularity in the order by the learned Judicial Magistrate No.I, Trichy and this Court not inclined to interfere with the same. However, as the trial already commenced. The learned trial Court is directed to complete the trial and deliver the judgment within a period of two months from the date of receipt of a copy of this order.

8. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

Msa

To

1. The Judicial Magistrate No.I,
Trichy.

+ 1 CC TO Mr.C.Venkeeswaran, ADVOCATE IN SR No.66739

+ 1 CC TO Mr.K.Prabhu, ADVOCATE IN SR No.66727

Cr1.O.P. (MD) No.6493 of 2019

and

Cr1.M.P (MD) .No.4327 of 2019

03.06.2019

KS (19.06.2019) 3 P 4 C