



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2019

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THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CRL.O.P. (MD) .No.9344 of 2019
and
Crl.M.P. (MD)No.5954 of 2019

Muthusamy : Petitioner

Vs.

Chandra : Respondent

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code praying to pass an order to call for the records in Crl.M.P.No.117 of 2019 in C.C.No.160 of 2017, dated 22.03.2019 passed by the learned Judicial Magistrate No.I, Dindigul and set aside the same as illegal.

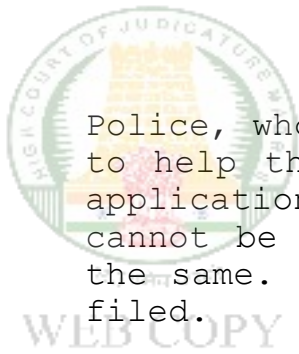
For Petitioner : Mr.M.Maran

ORDER

This petition has been filed challenging the order dismissing the petitioner's application filed under Section 311 of the Code of Criminal Procedure to examine one Inspector of Police, Vadamadurai Police Station.

2. The petitioner is an accused in a complaint filed under Section 138 of the Negotiable Instruments Act. The above complaint has been filed in the year 2017, and the trial has already commenced. After commencement of trial, the petitioner filed the petition under Section 311 of the Code of Criminal Procedure on 04.01.2019 on the ground that the petitioner has given a complaint against the respondent herein and her husband alleging that they are demanding exorbitant interest and the above said complaint has been enquired by the Inspector of Police, Vadamadurai Police Station. Now the petitioner wants to examine the Inspector of Police as defence witness.

3. The learned Judicial Magistrate No.1, Dindigul, dismissed the application stating that, already trial has commenced in this case, and the petitioner has given the police complaint pending this proceedings. Apart from that, the petitioner has not even stated in the petition as to how the evidence of Inspector of



Police, who enquired the complaint given by the petitioner, is going to help the petitioner. In the absence of any such materials, the application under section 311 of the Code of Criminal Procedure cannot be allowed and holding so, the learned Magistrate dismissed the same. Challenging the said order, the present petition has been filed.

4. I have heard the learned counsel appearing for the petitioner and also perused the records carefully.

5. According to the petitioner, on 06.01.2018, the petitioner has given a complaint against the respondent herein and her husband. The complaint has been enquired into by the Inspector of Police, Vadamadurai Police Station and also he submitted a report to the Deputy Superintendent of Police. In the above circumstances, the Inspector of Police, Vadamadurai Police Station has to be necessarily examined as a witness on his side.

6. But, on the perusal of the petition filed under Section 311 of the Code of Criminal Procedure, it could be seen that the petitioner did not mention the nature of the complaint given against the respondent and her husband and how enquiry conducted by the Inspector of Police is going to help the petitioner and the petition is very vague. That apart, the complaint has been given only on 06.01.2018 pending the proceedings initiated under Section 138 of the Negotiable Instruments Act. Considering the above circumstances, the learned Trial Judge has rightly dismissed the application filed by the petitioner under Section 311 of the Code of Criminal Procedure. I find no infirmity or illegality in the order passed by the Court below. Hence, the Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Crl.Side)

/TRUE COPY/

Sub Assistant Registrar(CS)

To
The Judicial Magistrate No.I,
Dindigul.

+1 CC to Mr.M.MARAN, Advocate SR-73343.

**Order made in
CRL.O.P. (MD) .No.9344 of 2019
Dated:03.07.2019**

CS: 12/07/2019 2P 3C