



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 15.10.2019
CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P (MD) No.963 of 2019

and

CrI.M.P.(MD) Nos.8722 and 403 of 2019

WEB COPY

K.Syed Mohammed ... Petitioner/Respondent/Accused
Vs

S.Chithumurugan ... Respondent/Petitioner/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to set aside the order passed by the learned Judicial Magistrate No.II, Fast Track Court at Magisterial level, Madurai in Cr.M.P.No.6092 of 2018, in S.T.C.No.19 of 2016, dated 26.11.2018.

For Petitioner : Mr.V.Nagendran
For Respondent : Mr.M.P.Dhamodharan

O R D E R

This Criminal Original Petition has been filed challenging the order passed in Cr.M.P.No.6092 of 2018, in S.T.C.No.19 of 2016, dated 26.11.2018, on the file of the learned Judicial Magistrate No.II, Fast Track Court at Magisterial level, Madurai, thereby allowing the petition filed under Section 311 of the Code of Criminal Procedure.

2. It is seen that the respondent is a complainant. He filed a complaint under Section 138 of the Negotiable Instruments Act for the alleged offence that the petitioner issued a cheque in favour of the respondent. When this cheque was presented, the same was returned with an endorsement "Payment stopped by Drawer". After examining P.W.1, the respondent herein filed an application under Section 311 of the Code of Criminal Procedure for adducing more evidence and to summon the Air Customs Superintendent, Madurai International Airport, who deposed on behalf of the complainant side.

3. It is also seen that in the statutory notice issued by the respondent, the petitioner / accused sent a reply notice stating that the respondent / complainant forced him to smuggle the goods from the Foreign Countries. In order to disprove the contention of the petitioner / accused, the respondent / complainant filed a petition under Section 311 of the Code of Criminal Procedure for adducing more evidence and to summon the Air Customs Superintendent,



Madurai International Airport, Madurai, who deposed on behalf of the complainant.

4. The trial Court after considering the facts and circumstances of the case rightly allowed the petition to summon the witnesses to depose in favour of the respondent / *de facto* complainant. This Court finds no illegality or infirmity in the order passed by the Trial Court. Further, this petition has been filed only to drag on the proceedings and to cause pendency to the petition, thereby, stalling the entire proceedings before the Trial Court.

5. In view of the above, the Criminal Original Petition stands dismissed. However, the trial Court is directed to complete the trial within a period of eight weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Judicial Magistrate No.II, Fast Track Court
at Magisterial level, Madurai
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.M.P.DHAMODARAN, Advocate (SR-92365[F] dated
17/10/2019)

+1 CC to Mr.V.NAGENDRAN, Advocate (SR-92554[F] dated 17/10/2019)

Crl.O.P (MD) No.963 of 2019

and

Crl.M.P.(MD) Nos.8722 & 403 of 2019

15.10.2019

TSG

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