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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 26.09.2019
CORAM:
THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN
Crl.O.P.(MD)No.4405 of 2018
and
Crl.M.P(MD) No.2157 of 2018

Kaleel Rahman ... Petitioner

Vs

Niyamathullah ... Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the order in Crl.M.P.No.8413 of 2017 in C.C.No.481 of 2016, on the file of the Judicial Magistrate Court No.II, Dindigul, dated 01.02.2018.

For Petitioner : Mr.S.A.Ajmalkhan
For Respondent : Mr.K.Prabhu

ORDER

This petition has been filed to quash the order in Crl.M.P.No.8413 of 2017 in C.C.No.481 of 2016, on the file of the Judicial Magistrate Court No.II, Dindigul, dated 01.02.2018.

2. Heard Mr.S.A.Ajmalkhan, the learned counsel appearing for the petitioner and Mr.K.Prabhu, the learned counsel appearing for the respondent.

3. The learned counsel for the petitioner would submit that the petitioner is an accused in C.C.No.481 of 2016 and he filed a petition under Section 91 of Cr.P.C. for producing the original bills of Ex.B-1 and Ex.B-1, which was issued by the M/s.Nisha Leathers, Dindigul, for the purpose of showing the transactions between the petitioner's Company and the accused's Company. He further submitted that he paid the entire payments for the purchase of goods to the respondent Company. The respondent Company is a partnership firm running in the name and style of 'M/s.Nisha Leathers'. The respondent is one of the partner. He further submitted that the trial Court failed to consider the Bill book to be produced by the respondent to prove the deduction of the advance payment paid by the petitioner herein. Further he submitted that the petitioner never issued any cheque to the respondent at the time of business between the two Companies. The cheques were handed over only for the purpose of security for the business transactions between them. Therefore, the cheque itself was never issued for any

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legal enforceable debts of the petitioner herein. The documents sought for by the petitioner clearly indicates the business transactions between the petitioner's Company and the respondent's Company. Therefore, those documents are very much necessary to prove his case before the trial Court. Therefore, he filed a petition under Section 91 of Cr.P.C and the same was not considered by the trial Court in a prospective manner and dismissed the same. Therefore, he sought to set aside the order passed by the trial Court.

4. The learned counsel for the respondent/defendant would submit that the Trial Court after considering the submissions made by the respondent, rightly dismissed the petition for the reasons that the present petition has been filed only to fill up lacunae.

5. The witnesses have been examined and the defence side witnesses are closed. The matter has posted for arguments and even both the parties have filed their written statement. At that time, the present petition has been filed by the petitioner under Section 91 of Cr.P.C to produce the irrelevant document before the Trial Court. The learned Magistrate, rightly dismissed the petition and the said order, does not warrant any interference. The respondent filed a complaint under Section 138 of the Negotiable Instruments Act, as against the petitioner. The Trial is almost over. Eeven after filing the written statement, the present petition is filed under Section 91 Cr.P.C to produce the bill book.

6. It is seen that the documents required to be produced by the respondent or to show the business transactions between the M/s.Nisha Leathers and the R.K.Tanners. The cheques were issued by the petitioner in favour of the respondent towards the repayment of the leathers purchased by him. While being so, the documents required to be produced before the Trial Court is in no way connected with the case and as well as the Ex.B-1 and Ex.B-2 are the xerox copies and it was allowed to be marked as Ex.B-1 and Ex.B-2. Therefore, if any admitted documents have not produced before the Trial Court, the present petition has been filed at the end of the trial. Therefore, the learned Magistrate, rightly dismissed the petition and as such, this Court does not warrant any interference in the order passed by the learned Magistrate.

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7. This Court does not find any illegality or infirmity in the order passed in Crl.M.P.No.8413 of 2017 in C.C.No.481 of 2016 on the file of the Judicial Magistrate Court No.II, Dindigul, dated 01.02.2018. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Judicial Magistrate Court No.II,
   Dindigul.

2. The Additional Public Prosecutor,
   Madurai Bench of Madras High Court,
   Madurai.

+1 CC to Mr.S.A.AJMAL KHAN, Advocate (SR-89963[F] dated 27/09/2019)
+1 CC to Mr.K.PRABHU, Advocate (SR-90182[F] dated 27/09/2019)

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