



WEB COPY

1

CRL.O.P.(MD)No.17081 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRL.O.P. (MD)No.17081 of 2015 and
M.P.(MD)Nos.1 and 2 of 2015

Usha ... Petitioner/Petitioner//Accused

Vs.

S.Ganesan ... Respondent/Respondent/Complainant

PRAYER : Criminal Original petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the order of the learned Judicial Magistrate, Tenkasi, passed in Crl.M.P.No.19342 of 2014 in S.T.C.No.329 of 2013 dated 15.05.2015 and set aside the same.

For Petitioner : Mr.D.Selvaraj

For Respondent : No appearance.

O R D E R

The petitioner is figuring as an accused in S.T.C.No.329 of 2013 on the file of the Judicial Magistrate, Thenkasi.

2. It is a private complaint initiated under Section 138 of the Negotiable Instruments Act by the respondent herein. The petitioner filed a petition under Section 91 of Cr.P.C. for directing the complainant to produce certain documents. The Court below partly allowed the said application and substantially dismissed the same. Aggrieved by the substantial dismissal of her petition, this criminal original petition has been filed.

3. Though the complainant has been served and his name is also printed in the cause list, he has not chosen to enter appearance either in person or through his counsel.

4. The petitioner is facing prosecution under Section 138 of the Negotiable Instruments Act. Section 139 of the Negotiable Instruments Act contains presumption in favour of the complainant. Therefore, the petitioner is obliged to rebut the presumption raised against her under Section 139 of the Negotiable Instruments Act.



5. Therefore, in order to discharge her burden, the petitioner has filed Cr.M.P.No.19342 of 2014 under Section 91 of Cr.P.C. The petitioner herein wanted as many as 7 documents. The Court below has directed the complainant to produce document No.1 sought for in the petition filed by the petitioner herein. Her request for production of document Nos.2 to 7 have been negatived. Document No.3 is only the Bank Statement of the complainant for the period from 01.01.2012 to 31.12.2012. The document No.4 sought for is the Income Tax Return submitted by the complainant.

6. I am of the view that these are the documents to which the complainant is very much having access and therefore the Court below ought to have directed the complainant to produce the copies of these two documents. The Court below has given acceptable reasons for negating the petitioner's request for causing production of the document Nos.2, 5, 6 and 7. The order passed by the Court below does not warrant any interference as far as those documents are concerned.

7. Therefore, the order impugned in this criminal original petition is partly set aside and the respondent is directed to produce the documents not only document No.1 as ordered by the Court below but also to produce the document Nos.3 and 4 sought for in Cr.M.P.No.19342 of 2014 in S.T.C.No.329 of 2013. This criminal original petition stands partly allowed. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Crl Side)

// True Copy //

Sub Assistant Registrar(CS)

pmu

To

1. The Judicial Magistrate, Tenkasi.

+1CC TO MR.S.SARVAGAN PRABHU, Advocate Sr. No. 102014

CRL.O.P.(MD)No.17081 of 2015 and
M.P.(MD)Nos.1 and 2 of 2015
27.11.2019

DKS (CO)

TR(02.12.2019) 2P 3C