

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.4196 of 2020

and

Crl.M.P.No.2396 of 2020

P.D.Appachan,
Proprietor of Swargachitra,
Producers and Distributors,
17/1146, Sastha Buildings,
Jail Road, Calicut - 673 004. Petitioner/Accused

Vs.

S.A.Chandrasekar,
S/o.Senathipathy Pillay,
86/87, State Bank Colony,
3rd Street, Virugambakkam,
Chennai - 600 092. Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to set aside the order dated 23.01.2020 passed in Crl.M.P.No.2872 of 2019 in C.C.No.8717 of 2008 on the file of the Fast Track Court-V, Metropolitan Magistrate Court, Saidapet, Chennai and allow the same.

For Petitioner : Mr.S.M.Muralidharan

For Respondent : No appearance

ORDER

This petition has been filed for challenging the order passed in Crl.M.P.No.2872 of 2019 in C.C.No.8717 of 2008 dated 23.01.2020, thereby dismissing the application filed by the petitioner under Section 311 of Cr.P.C.

2. The learned Counsel appearing for the petitioner would submit that the petitioner is an accused on the complaint lodged by the respondent for the offence punishable under Section 138 of Negotiable Instruments Act, 1881.

3. It is seen that, the petitioner already challenged the order passed by the trial Court in Crl.M.P.No.6049 of 2011 in C.C.No.8717 of 2008 before this Court in Crl.O.P.No.17811 of 2011 and the same was allowed by this Court by an order dated 20.11.2018 and directed the trial Court to complete the trial proceedings within a period of eight weeks and the petitioner shall produce his witnesses, if any, before the trial Court by taking necessary steps within a period of one week from the date of receipt of a copy of this order. Thereafter, the

petitioner moved application in Crl.M.P.No.2626 of 2019 to produce the defence side witness. Hence, this Court fixed time for one week for taking necessary steps, which was closed by the trial Court. Therefore, the defence witness was also closed as directed by this Court. Thereafter, to defend his case, the petitioner has filed this petition, to recall P.W1 for further cross examination. Unfortunately, it was dismissed by the trial Court and he sought for one more opportunity to the petitioner, to cross examine the defacto complainant/P.W.1.

4. On a perusal of record, it shows that the respondent lodged complaint as against the petitioner for an offence under Section 138 of Negotiable Instruments Act, 1881. The trial was commenced in the year 2010 and P.W.1 was examined in chief and thereafter again he was extensively cross examined on 13.04.2010 and 05.07.2010 by the petitioner herein. Thereafter, the petitioner filed application for summoning the son of the respondent and the manager of the petitioner as the defence side witness in Crl.M.P.No.6049 of 2011 and the same was dismissed by the trial Court on 08.07.2011. Aggrieved by the same, the petitioner challenging the said order in Crl.O.P.No.17811 of 2011 and the same was allowed by an order dated 20.11.2018 and directed the trial Court to complete the trial proceedings within a period of eight weeks and further directed the petitioner to produce the witness, if any, before the trial Court by taking necessary steps within a period of one week. Thereafter, the petitioner did not take any steps to produce any witness on his side. Therefore, the defence side witness was closed by the trial Court. Thereafter, the petitioner filed this petition to cross examine defacto complainant/P.W.1.

5. It is seen that already the petitioner cross examine the defacto complainant/P.W.1 on two occasions namely on 13.04.2010 and 05.07.2010. Therefore, after a period of ten years, again the petitioner filed this petition, to cross examine the defacto complainant/P.W.1 and it is nothing but clear abuse process of this Court and it has been filed only to drag the proceedings and nothing else. Therefore, the trial Court rightly dismissed the petition and this Court finds no illegality or infirmity of the order passed by the trial Court. However, the trial Court is directed to complete the trial proceedings as directed by this Court.

6. With the above direction, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

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To

The Fast Track Court-V,
Metropolitan Magistrate Court,
Saidapet, Chennai.

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and
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