

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 23.07.2020
CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.4903 of 2020
and
CRL.M.P.No.2796 of 2020

B. Yuvaraj ... Petitioner/Accused
Vs.

B.K.Venkatesan ... Respondent/complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to set aside the order dated 18.02.2020 in Crl.MP.No.6498 of 2018 in CC.No.23 of 2013 on the file of the Metropolitan Magistrate, Fast Track Court No.1, Egmore at Allikulam, Chennai.

For Petitioner : Mr.S.Lingesh
For Respondent : No appearance

O R D E R

This Criminal Original Petition has been filed to set aside the order dated 18.02.2020 in Crl.MP.No.6498 of 2018 in CC.No.23 of 2013 on the file of the Metropolitan Magistrate, Fast Track Court No.1, Egmore at Allikulam, Chennai.

2. The learned counsel for the petitioner would submit that the petitioner is facing trial initiated by the respondent for the offences punishable under Section 138 of the Negotiable Instruments Act. The petitioner is a tenant and the respondent is the landlord. There was a dispute between them in respect of payment of rent. In this regard, PW1 was cross examined and he categorically admitted that till the year 2009, the petitioner has paid the rent and thereafter, he did not pay the rent and the same has been counted under the income tax till the year 2009. Therefore, he filed a petition for production of income tax returns from the year 2008 - 2009 to 2015 - 2016. Without considering the said fact, the trial court has dismissed the petition.

3. Heard Mr.S.Lingesh, learned counsel appearing for the petitioner.

4. On perusal of the complaint, it is seen that the petitioner is an accused in the complaint lodged by the respondent for the offences punishable under Section 138 of the Negotiable Instruments Act. The complaint was filed in the year 2013 and PW1 was examined-in-chief on 08.07.2015 and

thereafter, at the request of the learned counsel for the accused, the matter was adjourned. Thereafter only on 25.08.2015, PW1 was partly examined. In chief cross examination, PW1 categorically admitted that the rent paid by the petitioner has been shown in the income tax returns till the year 2009 and thereafter, the petitioner evaded to pay the rent and as such, rent was not shown in the income tax returns. Again on 23.03.2017, PW1 was cross examined in extensive and the prosecution witness was closed. After questioning under Section 313 of Cr.P.C., the petitioner was examined as PW1 and posted the matter for further evidence of defence. At that circumstance, the petitioner filed this petition under Section 311 of Cr.P.C., for a direction to direct the respondent to produce income tax returns from the year 2008-2009 to 2015-2016 in the year 2018. Further, on perusal of the petition, the petitioner sought for income tax returns to be produced by the respondent / complainant to prove the payment of rent. The respondent/defacto complainant admitted the fact that till the year 2009, the petitioner has paid the rent and the same has been shown as income tax returns and only thereafter, the petitioner failed to pay the rent. That apart, the income tax returns is no way connected with the alleged offence under Section 138 of the Negotiable Instruments Act and as such, the trial court has rightly dismissed the petition filed by the petitioner. That apart after examining DW1, when the matter was posted for other defence witness, the present petition has been filed. As such, it is nothing but a clear abuse of process of court. Only for the purpose of dragging the proceedings, the present petition has been filed. Therefore, this court does not find any irregularity or infirmity in the order of the trial court

5. In the result, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed. However, since the case is of the year 2013, the trial court is directed to complete the trial within a period of three months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gv

To

The Metropolitan Magistrate,
Fast Track Court No.1,
Egmore at Allikulam, Chennai.

CRL.O.P.No.4903 of 2020
and

CRL.M.P.No.2796 of 2020

A.SK(25/09/2020)

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