

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order Reserved On : 05.11.2020

Order Delivered On : 11.11.2020

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.O.P No.25205 of 2019  
and Crl.M.P.No.13457 of 2019

Shanmugasundaram

...Petitioner/Petitioner  
Complainant

Vs.

M/s.Sri Balaji Industries,  
Represented by its Proprietor,  
N.Thiruvavukkarasu

...Respondent/Respondent  
Accused

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to set aside the order passed in Crl.M.P.No.1460 of 2018 in S.T.C.No.5 of 2018 on the file of the Fast Track Court, Vellore, dated 22.03.2019.

For Petitioner : Mr.M.Sachin Vijay  
For Respondent : No appearance

O R D E R

The present Criminal Original Petition has been filed seeking a relief to set aside the order passed in Crl.M.P.No.1460 of 2018 in S.T.C.No.5 of 2018 on the file of the Fast Track Court, Vellore, dated 22.03.2019.

2. Heard the learned counsel appearing for the petitioner. Despite repeated adjournments, neither the respondent nor his counsel has appeared before this Court for placing his case.

3. The petitioner herein is the complainant in S.T.C.No.5 of 2018 on the file of the Fast Track Court, Vellore. He filed a private complaint against the respondent herein/accused, who has been charged for the offence punishable under Section 138 of the Negotiable Instruments Act, and the case is pending in the trial stage. During the time of cross-examination of P.W.1 on the side of the respondent, a xerox copy of the cash receipt dated 24.05.2017 was marked as Ex.D1. After admitting the said document as Ex.D1, the petitioner had filed an Application before the learned Judicial Magistrate under Section 91 of

Cr.P.C., in which, he prayed for a relief of direction directing the respondent to produce the original cash receipt dated 24.05.2017 (copy of the same has been marked as Ex.D1).

4. The learned Judicial Magistrate (Fast Tract Court), Vellore, after affording an opportunity to the respondent herein, dismissed the said application stating that, before marking the said document, P.W.1 had admitted the same as genuine and therefore, the question of producing the original document is not necessary to decide the case.

5. Now, there is no dispute that, before the Court below, during the time of cross-examination, the disputed document (Ex.D1) is shown before the petitioner and after seeing the same, the petitioner himself admitted that, the signature found in the said document belongs to him. Only in the said circumstances, the learned Judicial Magistrate permitted the respondent to mark the said document as Exhibit.

6. In general, under Section 58 of the Indian Evidence Act, facts admitted need not to be proved. No fact need to be proved in any proceeding which the parties thereto or their agents agree to admit at the hearing, or which, before the hearing, they agree to admit by any writing under their hands, or which by any rule of pleading in force at the time they are deemed to have admitted by their pleadings.

7. Accordingly, the preposition laid down by various higher forums reveals that, parties concerned need not prove admitted facts by way of producing original documents, as it was already admitted. Therefore, praying to call for the original document in respect of Ex.D1 is not at all necessary for completing the proceedings, which has been initiated by the petitioner. Hence, the impugned order passed by the learned Judicial Magistrate (Fast Track Court), Vellore, in CrI.M.P.No.1460 of 2018 in S.T.C.No.5 of 2018, dated 22.03.2019 is well within law and therefore, interference of this Court is not required.

With the above observations, the Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

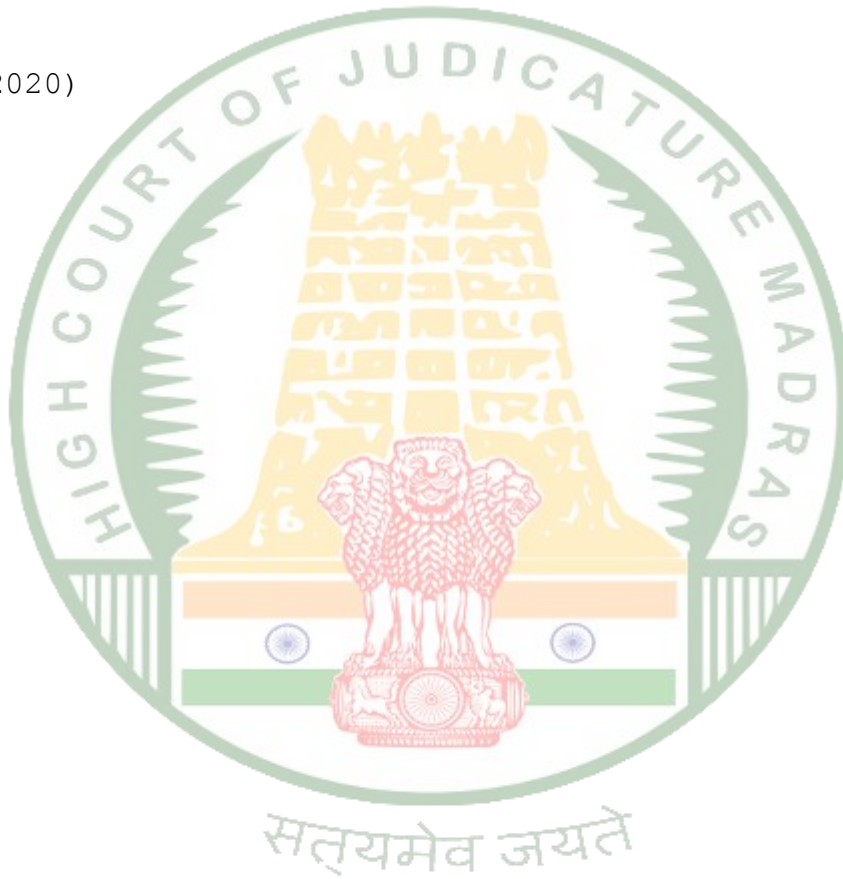
1. The Judicial Magistrate,  
Fast Track Court, Vellore.

2. -do- Thro The Chief Judicial Magistrate,  
Vellore.

+1cc to Mr.S.Mohanraj, Advocate, S.R.No.36590

Crl.O.P No.25205 of 2019  
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GJ(CO)  
RV(10/12/2020)



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