



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2021

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.R.L.OP.NO.26180/2015

&

M.P.NOS.1/2015 & 2/2015

[Video Conferencing]

1. M/s.Sunview Systems
Rep.by its Partner H.Basheer Ahamed
2. H.Basheer Ahamed
3. A.Hussain ... Petitioners
Versus
R.Vimal ... Respondent

PRAYER:-

Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records and direct the learned trial court to eschew the re-examination of PW1 dated 12.05.2015 recorded in CC.No.270/2012 on the file of the learned Judicial Magistrate No.1, Fast Track Court at Magisterial Level, Coimbatore.

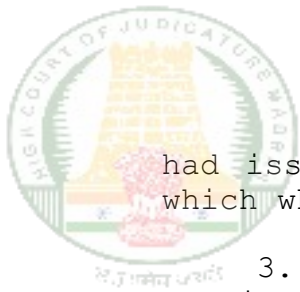
For Petitioners : Mr.H.Rajasekar

For Respondent : Dr.S.S.Swaminathan

ORDER

1. The accused 1 to 3 are the petitioners herein. They are facing trial in CC.No.270/2012 on the file of the learned Judicial Magistrate No.1/Fast Track Court at Magistrate Level, at Coimbatore.

2. The said Calendar Case had been taken cognizance on a complaint given by the respondent, that the petitioners herein



had issued a cheque towards a loan for a sum of Rs.3.40 Lakhs which when presented for payment, had been returned dishonoured.

3. Claiming that this act gave rise to the offences under Sections 138 and 139 of the Negotiable Instruments Act, a complaint had been preferred by the respondent before the learned Judicial Magistrate No.1/Fast Track Court at Magisterial level, Coimbatore, who had after due process, had taken cognizance of the same as CC.No.270/2012.

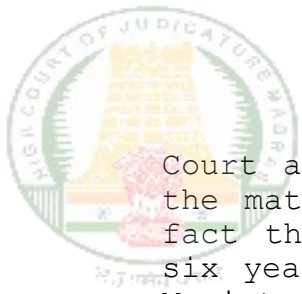
4. The said Calendar Case is now nearly about nine years old. Trial had commenced. PW1 had deposed evidence. He was also cross-examined on behalf of the petitioners herein. During the cross-examination, he had also stated that quite apart from the cheque, several other documents had also been given. Those documents were put forth during re-examination and they were marked. They were marked as Exs.P6, P7 and P8. An objection was raised for marking of those documents during re-examination. The learned Magistrate had noted down the objections and had stated that the objections would be answered at the time of final judgment. Seeking to eschew this particular re-examination, the present petition has been filed.

5. In the first place, there is no provision to eschew any evidence recorded in a Court of law. Either the same can be taken advantage of by the parties or they can point out discrepancies in the evidence recorded and during the course of arguments, urge upon the learned Magistrate who is conducting trial, to ignore such evidence. In the present case, three documents came to be marked during re-examination which were a fall out of the answers given in the cross-examination.

6. In the decision reported in 2001 [3] SCC 1 [Shantilal Panchal Vs. State of Gujarat and Another], the Hon'ble Supreme Court of India had very clearly stated that particularly in criminal cases, when objections are raised over marking of documents, the proper course for a Trial Court would be to take those documents on record and mark them subject to objections and the Apex Court also placed an obligation and onus on the learned counsels to advance those objections at the time of final arguments and also placed a further obligation on the Trial Judge to answer those objections in the course of judgment. In the instant case, the learned Magistrate had followed the said procedure. He had stated that the objections would be answered at the time of final judgment in the case.

7. I find no infirmity in the said noting of the learned Magistrate.

8. The petitioners are directed to go back to the Trial



Court and cooperate during the further course of trial. Since the matter is of the year 2012 and I am also conscious of the fact that the matter has been held by this Court for the past six years, I would still call upon the concerned jurisdictional Magistrate who is conducting the trial now, to bestow some personal attention and try to dispose of the matter on or before 31.03.2022.

9. With the above observations, the Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

AP

To

1. The Judicial Magistrate No.1,
Fast Track Court at Magisterial Level,
Coimbatore.
2. The Public Prosecutor,
High Court, Madras.

+1cc to Dr.S.S.Swaminathan, Advocate, S.R.No.47368

C.R.L.OP.NO.26180/2015

KSM(CO)
PBS/07/10/2021