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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.11.2021

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl. O.P. No. 8010 of 2017
and
Crl.M.P.Nos.5778 & 5779 of 2017

Mr. Ravi,
S/o. A.Mariappan

...Petitioner/Accused

Versus

K.P.Textiles (CBE) Pvt. Ltd.,
rep. by its Power of Attorney,
Mr.Mathan Murugan

...Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for records in C.C.No.639 of 2013 on the file of the Fast Track Court No.1, Magisterial Level, Coimbatore and set aside the docket order dated 20.12.2016.

For Petitioner : Mr.S.Kalyanaraman

For Respondent : Mr.P.Maheshkumar

O R D E R

(This case has been heard through video conference)

This Criminal Original Petition has been filed seeking to set aside the docket order dated 20.12.2016 passed by the court below.

2. The only grievance of the petitioner, who is accused before the trial court in the complaint initiated under Sec.138 of Negotiable Instruments Act, is that on the date of hearing on 20.12.2016 before the learned Magistrate, initially, the complainant was absent and there was no representation on behalf of the complainant and the accused was also absent, however, the accused has filed a petition under Sec.317 of Crl.P.C., which was allowed. In view of the absence of the complainant, the matter has been passed over for dismissal. However, instead of dismissing the complaint, the learned Magistrate had adjourned



the complaint to 28.12.2016. Therefore, it is his only contention that the matter has not been dismissed in view of absence of complainant. It is to be noted that the learned Magistrate has not passed order of dismissal, in fact, he has just passed over the matter. The order of Magistrate further show that after the complainant was present with the petition for amendment, which was not taken on file, as the notice was not served on the other side. Thereafter, again at 02.00 p.m., the complainant and his counsel appeared and wanted to file a petition to amend the complaint, the same was also not taken on file, as the notice was not served on the accused. In the meantime, the learned counsel for accused appeared in court and stated that since the learned counsel for petitioner had called him, he has appeared in this matter. In the above circumstances, learned Magistrate taking note of the fact that as the accused was also aware of passing over of the matter and they had knowledge of passing over of the matter, the learned Magistrate has adjourned the matter to 28.12.2016. The above order was under challenge in this petition.

3. In such view of the matter, this Court is unable to apprehend as to how such order could be challenged under Sec.482 of Crl.P.C. The learned Magistrate has recorded what has transpired in the court and the order as well as proceedings of the court cannot be disbelieved. In every proceedings of the Court, there is sanctity in it. Therefore, merely because the accused alleged bias, it cannot be said that those orders is amenable under Sec.482 Cr.P.C. The very endorsement of the learned Magistrate in the docket would indicates that the learned counsel for accused has in fact threatened the learned Magistrate by giving a complaint, if the matter is adjourned once again. That was the conduct of lawyer, which has been recorded by the learned Magistrate. Therefore, this Court is of the view that challenging the said order and protracting the matter itself would indicates that the petitioner is protracting the matter without any reason whatsoever. Hence, this Court does not find any infirmity in the order and the order passed by the learned Magistrate does not suffer from any infirmity and the petition challenging the same is liable to be dismissed with cost of Rs.5000/- payable to the District Legal Services Authority and the accused shall appear before the Magistrate and file a petition under Sec.436 of Cr.P.C. and execute a bond of Rs.10,000/- with two sureties. On such execution of bond and production of sureties, he shall be released on bail on the same day and he shall continue to appear before the Trial Magistrate and the Trial Magistrate shall dispose of the main Criminal Case within a period of three months from the date of receipt of copy of this order and the Trial Magistrate is also to ensure that the amount of Rs.5000/- is paid to District Legal Services



Authority by the accused. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Criminal Miscellaneous Petitions are closed.

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Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

rpp

To

The Fast Track Court No.1,
Magisterial Level,
Coimbatore.

Copy to

The Member Secretary,
District Legal Service Authority,
Chennai.

+1cc to Mr.S.Kalyanaraman, Advocate, S.R.No.58800

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NSK 07/12/2021