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Crl.O.P.No.28039 & 28041 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2022

CORAM:

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.O.P.No.28039 & 28041 of 2022

and

Crl.M.P.Nos.17252 & 17254 of 2022

S.Jayachandran Raja

... Petitioner in both Crl.O.P's

Vs.

1.R.Jagannathan

2.M/S.Silvermine Silk Processors (p) Ltd.,

No. 6/491, 9/6, check post,

Manuppatti Post,

Udamalpet Taluk .

... Respondents in both Crl.O.P's

COMMON PRAYER: Criminal Original Petitions filed under Section 482 of Cr.P.C., to set aside the order relating to the impugned order dated 21.09.2022 passed in Crl.M.P.No.6250 of 2022 in C.C.No.189 of 2010 and Crl.M.P.No.6251 of 2022 in C.C.No.190 of 2010 respectively on the file of the Judicial Magistrate No.I, Udumalaipet.

For Petitioner in both Crl.O.P's : Mr.R.Subburaj



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COMMON ORDER

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These Criminal Original Petitions have been filed to set aside the orders passed by the learned Judicial Magistrate No.I, Udumalaipet in Crl.M.P.No.6250 of 2022 in C.C.No.189 of 2010 and Crl.M.P.No.6251 of 2022 in C.C.No.190 of 2010 respectively dated 21.09.2022.

2.The learned counsel appearing for the petitioner would submit that the petitioner is an accused in C.C.Nos.189 & 190 of 2010 on the file of the learned Judicial Magistrate No.I, Udumalaipet. He would submit that the case is of the year 2010 and on the side of the prosecution, 6 documents were marked as Exs.P1 to 6 in C.C.No.189 of 2010 and 9 documents were marked as Exs.P7 to 15 in C.C.No.190 of 2010. During the trial, the petitioner has filed a petition under Section 91 of Cr.P.C., with regard to the marking of share certificate of the defacto complainant/first respondent and the same was allowed by the learned Magistrate and accordingly, the defacto complainant/first respondent produced the share certificate, which stands in his name alone and the same has been marked. Later, after closing the evidence of PW1, the defacto complainant/first respondent filed a petition under Section 311 of Cr.P.C to recall himself as to mark the share certificate,



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which stands in the names of his wife and mother. Therefore, the petitioner objected the petition by filing a counter statement. However, the learned Magistrate, without considering the objection, had allowed the petition on 21.09.2022. Hence, the present petition has been filed.

3. I have considered the matter in the light of the submissions made by the learned counsel for the petitioner and perused the materials available on record.

4. A Perusal of the records, reveals that the petitioner is an accused in C.C.Nos.189 & 190 of 2010 on the file of the learned Judicial Magistrate No.I, Udumalaipet. The defacto complainant/first respondent filed the complaints against the petitioner and 6 others for the offence punishable under Section 138 of N.I.Act with regard to dishonour of cheques bearing registration Nos.787508, 787509 & 78510 dated 15.02.2010, 10.03.2010 & 10.04.2010 respectively, for a sum of Rs.17,00,000/-. During the trial, the petitioner had filed a petition under Section 91 of Cr.P.C., with regard to the marking of share certificate of the defacto complainant/first respondent and the same was allowed by the learned Magistrate. Subsequently, the defacto complainant/first respondent produced the share certificate, which stands in



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his name alone. Thereafter, the defacto complainant/first respondent filed a petition under Section 311 of Cr.P.C., to recall himself as to produce the share certificate, which stands in the names of his wife and mother and the same was allowed by the learned Magistrate on 21.09.2022.

5. On perusal of the impugned order, it is seen that the Trial Court by referring upon the judgment of the Hon'ble Supreme Court in the case of ***“Bibin Santhilal Vs. State of Punjab”***, had allowed the petition. It is not disputed that the defacto complainant/first respondent filed the private complaints against the petitioner with regard to the dishonour of three cheques. The dispute is with regard to the share certificate produced by the parties. Now, the defacto complainant/first respondent wants to produce the share certificate, which stands in the names of his wife and mother, in order to prove his case. Since the defacto complainant/first respondent wants to produce the new evidence, the petitioner has every opportunity to cross examine the witnesses in all aspects. Further, with regard to the objection of documents, the Trial Court may consider the objection raised by the petitioner and relevancy of the evidence, while deciding the case, in accordance with law. Therefore, I find no merit in this petition.



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6. Accordingly, these Criminal Original Petitions stand dismissed.

Consequently, connected Criminal Miscellaneous Petitions are closed.

17.11.2022

Internet: Yes

Index: Yes/No

Speaking/Non speaking order

shk

To

1.The learned Judicial Magistrate No.I, Udumalaipet.



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V.SIVAGNANAM, J.
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