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Crl.O.P.Nos.15553 & 15556 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.Nos.15553 & 15556 of 2023
and Crl.M.P.No.9661 of 2023

M.N.Karthikeyan

... Petitioner in both Crl.O.Ps.

Vs.

M/s.Sri Saravana Spinning Mills Private Limited,
Its Senior Manager, (Marketing)
represented by R.Ganesh

... Respondent in both Crl.O.Ps.

Prayer in both Crl.O.Ps: This Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order dated 30.05.2023 in Crl.M.P.Nos.5408 & 5409 of 2022 on the file of Judicial Magistrate (Fast Track Court), Tiruppur.

For Petitioner

in both Crl.O.Ps. : Mr.K.Sudhakar

COMMON ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below dismissing the application filed in Crl.M.P.Nos.5409 & 5408 of 2022 by order dated 30.05.2023 wherein the petitioner had sought for re-opening the defence side evidence and for further examination of the



Crl.O.P.Nos.15553 & 15556 of 2023

petitioner.

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2. The respondent had initiated criminal proceedings against the petitioner for the offence under section 138 of Negotiable Instrument Act in S.T.C.No.220 of 2012. The complaint was filed in the year 2010 and ultimately the Court had taken cognizance of the complaint and it was numbered only in the year 2012. The case was at the stage of trial from the year 2014 and during the year 2016, the matter was referred to mediation and there was no settlement between the parties. The evidence on the side of the complainant was closed and the petitioner filed an application under section 311 of Cr.P.C to recall P.W.1 for cross examination and this application was allowed by order dated 15.05.2018. It is seen from the orders passed by the Court below that the case was at the stage of cross examination of P.W.1 from the year 2018 to 2021.

3. The petitioner filed C.M.P.No.9535 of 2021 for reopening and to examine witness on the side of the defence and this application was dismissed by an order dated 15.02.2022. This order became final and the petitioner did not challenge this order. Thereafter, the petitioner filed C.M.P.Nos.1778 and 1779 of 2022 with almost a similar prayer. The petitioner took a stand that in the year 2010, an FIR was registered in Crime No.82 of 2010 and that a statement was made by the petitioner which will clearly show that the petitioner had

settled the entire cheque amount. This issue was taken into consideration by the Court below and it was found that the applications were filed only to drag on



Crl.O.P.Nos.15553 & 15556 of 2023

the proceedings and accordingly both the applications were dismissed by an order dated 27.06.2022. These orders also became final and it was not put to challenge.

4. The petitioner once again filed C.M.P.No.5409 of 2022 with a similar prayer. The petitioner took advantage of an observation that was made in the earlier order to the effect that the petitioner can always seek for the document pertaining to Crime No.82 of 2010 by making an application under the Right to Information Act. Therefore, according to the petitioner, he made an application under the Right to Information Act and document were not furnished and therefore the present application has been filed.

5. The Court below had considered the entire facts in detail and also the dismissal of the earlier applications and had come to the conclusion that the petitioner had filed the application only to drag on the proceedings. This Court does not find any illegality or infirmity in the order passed by the Court below. It is quite unfortunate that a 138 complaint has been kept pending for more than 11 years and one petition after the other is being filed by the petitioner only within an intention to drag on the proceedings. If really the petitioner had settled the entire amount in the year 2010 itself, there was no reason for the petitioner to wait till 2022 and file one application after the other.



Crl.O.P.Nos.15553 & 15556 of 2023

WEB COPY

6. In the light of the above discussion, this Court does not find any merits in these petitions and accordingly, both petitions stand dismissed. The Court below is directed to complete the proceedings in S.T.C.No.220 of 2012

N.ANAND VENKATESH,J.

Mpa

within a period of four weeks from the date of receipt of a copy of this order and a compliance report shall be send to this court.

12.07.2023

Speaking Order/Non-speaking Order

Index :Yes/No

Internet:Yes/No

mpa

To

1.The Judicial Magistrate
(Fast Track Court), Tiruppur.

2.The Public Prosecutor,
Madras High Court,
Chennai.



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Crl.O.P.Nos.15553 & 15556 of 2023

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