IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P Nos.16532, 16549 & 16289 of 2023
and Crl.M.P Nos.10577, 10593 & 10334 of 2023

Anbazhagan ... Petitioner in all Crl.O.Ps

vs.

Jeyam Traders by Managing Director
Maheshwari
D.No.89, 2^{nd} Floor,
AS Complex,
Mohanur Road,
Namakkal Taluk,
Namakkal District.

By Power Agent
M.Kannan,
S/o.K.Muthusamy
D.No.89, 2^{nd} Floor,
AS Complex,
Mohanur Road,
Namakkal Taluk,
Namakkal District. ... Respondent in Crl.O.Ps

PRAYER in Crl.O.P.No.16532 of 2023: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 05.06.2023 made in C.M.P.No.3288 of 2023 in C.C.No.463 of

2021 on the file of the Judicial Magistrate, Additional Mahila Court, Namakkal.

PRAYER in Crl.O.P.No.16549 of 2023: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 05.06.2023 made in C.M.P.No.3262 of 2023 in C.C.No.465 of 2021 on the file of the Judicial Magistrate, Additional Mahila Court, Namakkal.

PRAYER in Crl.O.P.No.16289 of 2023: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 05.06.2023 made in C.M.P.No.3280 of 2023 in C.C.No.464 of 2021 on the file of the Judicial Magistrate, Additional Mahila Court, Namakkal.

For Petitioner in all Crl.O.Ps : Mr.Deepan Uday

COMMON ORDER

The issue involved in all these petitions are common and hence, they are taken up together, heard and disposed of through this common order.

2.The petitioner is the accused in the complaint filed by the respondent under Section 138 of the Negotiable Instruments Act. The petitioner filed an application under Section 91 of Cr.P.C., to cause production of the Value Added Tax (VAT) for the years 2016-17 and 2017-18 and also the GST returns that were filed by the respondent during the year 2019-20.

3.The Court below on considering the facts and circumstances of the case and the proceedings that have taken place till now, came to a conclusion that the application has no merits and accordingly, dismissed the application filed in each of the complaint. Aggrieved by the same, these criminal original petitions have been filed before this Court.

4.Heard the learned counsel for the petitioner and carefully perused the materials available on record.

5.The petitioner had already filed a similar application under Section 91 of Cr.P.C., for causing production of the returns filed under GST and also the ledgers account statements of the respondent Company and the said application was allowed by the Court below by an order dated 11.01.2023. According to the petitioner, the respondent had only filed the particulars of the income tax statements and he never filed any of the documents pertaining to the VAT tax or the GST returns. In view of the same, the present application has been filed before the Court below.

6.In the considered view of this Court, the respondent had taken a clear stand before the Court below that he is exempted under Section 15 of the Value Added Tax Act and hence, it is not possible for him to produce the VAT tax particulars. The Court below also found that the transaction between the petitioner and the respondent had taken place even before the GST came into force. In view of the same, the Court below found that the application filed by the petitioner will serve no purpose and accordingly, dismissed the application.

7.The respondent has taken a clear stand that he is exempted under the relevant enactment and hence, he had only produced the income tax statements. The respondent has also been cross-examined in this regard by the petitioner. Under such circumstances, it will serve no purpose to once again direct for the production of the VAT tax and GST returns. The respondent having taken such a stand and the petitioner having made all the attempts to secure the relevant documents, it is left open to the petitioner to argue the case on merits and if required, to invoke Section 114 of the Evidence Act to draw adverse inference against the respondent if respondent has intentionally refused to produce those documents, which will reveal the truth.

8.In view of the above, this Court does not find any illegality or infirmity in the order passed by the Court below and it does not require the interference of this Court. Accordingly, all these criminal original petitions stands dismissed. The Court below is directed to dispose of C.C.No.463 of 2021, C.C.No.465 of 2021 and C.C.No.464 of 2021, within a period of three months from the date of receipt of copy of this order. Consequently, connected miscellaneous petitions are closed.

25.07.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
ssr

To

1.The Judicial Magistrate, Additional Mahila Court, Namakkal.

2.The Public Prosecutor,
High Court, Madras.

N. ANAND VENKATESH, J.
ssr

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