



Crl.O.P.No.30556 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 14.03.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.CHANDRASEKHARAN**

Crl.O.P.No.30556 of 2022

and

Crl.M.P.No.18733 of 2022

V.V.R.S.Prabhu

...Petitioner

Vs.

S.Jawaharlal

...Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crl.M.P.No.37243 of 2022 in C.C.No.8556 of 2018 on the file of the Learned FTC-1/Metropolitan Magistrate, Allikulam, Chennai and set aside the order dated 01.12.2022 made in Crl.M.P.No.37243 of 2022 in C.C.No.8556 of 2018 pending on the file of the Learned FTC-1/Metropolitan Magistrate, Allikulam, Chennai by appreciating the above stated reasons.

For Petitioner : Mr.M.Guruprasad
for Mr.S.Arunkungumaraj
For Respondent : Mr.R.Ganesh Kumar



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ORDER

WEB COPY This Criminal Original Petition has been filed calling for the records in Crl.M.P.No.37243 of 2022 in C.C.No.8556 of 2018 on the file of the learned FTC-1/Metropolitan Magistrate, Allikulam, Chennai and set aside the order dated 01.12.2022 made in Crl.M.P.No.37243 of 2022 in C.C.No.8556 of 2018 pending on the file of the learned FTC-1/Metropolitan Magistrate, Allikulam, Chennai.

2. It is the submission of the learned counsel for the petitioner that the petitioner filed a petition under Section 294 Cr.P.C seeking the respondent to admit or deny the genuineness of the description of the documents which were listed. In all the seven documents, the respondent had admitted S.Nos.1 and 2 and those documents were marked as Exs.C2 and C3. The respondent denied the genuineness of the documents 3 to 7. The learned FTC-1/Metropolitan Magistrate, Allikulam, Chennai, without considering the reason seeking admission or denial of his documents and that production of those documents are necessary to establish the petitioner's case, dismissed the petition. Challenging the dismissal of the petition filed under Section 311 Cr.P.C in Crl.M.P.No.37243 of 2022, this petition is filed.



3. He further submitted that a letter dated 28.02.2018 from Karur Vysya Bank Limited, Chennai, intimating the petitioner about the sanction of credit facilities is required to prove that a sum of Rs.1,10,00,000/- said to have been paid towards discharge of liability, was not paid for discharge of partial liability, but was paid in connection with the sale agreement. The Police complaint lodged by the petitioner dated 27.08.2018 against the respondent along with CSR, is required to be produced for the purpose of proving that there was a Police enquiry on the basis of the complaint given by the petitioner with regard to monetary transaction and issuance of cheque. The letter dated 02.12.2021 from Karur Vysya Bank is also required to prove that the impugned cheque was issued to the petitioner in the year 2014. Petitioner is not interested now in production of Document Nos. 5 and 7. He reiterated that unless these documents are permitted to be produced, he would not be in a position to establish his case.

4. In response, the learned counsel for the respondent submitted that the petitioner filed series of petitions seeking various reliefs with the main object of protracting the proceedings. Petition in Crl.M.P.No.37243 of 2022 was filed when the case was pending for arguments and especially after completion of



complainant's arguments. He drew the attention of this Court to several petitions filed by the petitioner and orders passed thereon and also orders passed by this Court.

5. The petitioner filed a petition in Crl.M.P.No.5908 of 2019 to subject Ex.P4, cheque for scientific examination of handwriting expert to find out the following questions:-

a. Whether the hand writing of the drawer of signature found in the cheque and handwriting of the other details filed up in other columns of the cheque are one and the same.

b. Whether the ink used for the signature of the drawer of the cheque and ink used for filling up the other details are one and the same.

c. To compare the admitted handwriting of the drawer of the cheque with the handwriting of details filled up in the cheque.

This petition, after hearing both the sides came to be dismissed.

6. When respondent was partly cross examined on 05.11.2020, the petitioner filed petitions in Crl.M.P.No.13313 and 13315 of 2020, seeking to produce documents relating to the petitioner's Income Tax and VAT Tax Returns documents. On 27.09.2021, when the respondent was present and subjected



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himself for cross examination, he was not cross examined by the petitioner.

Thereafter, the petitioner filed a petition in Crl.M.P.No.25355 of 2021 under Section 311 of Cr.P.C, for recalling the petitioner and that was allowed on the respondent saying no objection on payment of costs. On 17.11.2021, the respondent was further cross examined. The petitioner filed a petition in Crl.M.P.No.26699 of 2021, to reopen the defence evidence and that was allowed since the respondent said no objection. The petitioner filed a petition in Crl.M.P.No.26694 of 2021 under Section 254 of Cr.P.C, to summon the Income Tax Officer to cause production of Income Tax Returns of the respondent from the year 2009-2010 to 2016-2017. After hearing both the sides, this petition came to be dismissed on 17.02.2022. Another petition in Crl.M.P.No.26695 of 2021 was filed under Section 45 of Indian Evidence Act, to compare the petitioner's handwriting. This petition was also dismissed on 17.02.2022. Challenging the dismissal orders, the petitioner filed a revision petition in Crl.R.C.No.334 of 2022 and this Court, on 29.06.2022 allowed the revision petition and directed to refer Ex.P4, cheque to be compared with the handwriting expert with admitted signature. Accordingly, the handwriting expert compared the signature and gave opinion that the signature found in Ex.P4, cheque is that of the petitioner. The



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petitioner summoned the handwriting expert extensively and cross examined the handwriting expert. However, the handwriting expert re-affirmed her finding that the handwriting in Ex.P4/cheque is that of the petitioner. The petitioner filed a transfer petition before the learned Chief Metropolitan Magistrate, Egmore, Chennai, in Crl.M.P.No.3747 of 2022 making allegations against the Judicial Officer. The main allegation was that the orders passed were not uploaded. The Transfer petition came to be dismissed by the learned Chief Metropolitan Magistrate, Egmore, Chennai, stating that the orders have been uploaded and the claim that orders were not uploaded, is not true.

7. The learned counsel for the respondent brought to the notice of this Court that the petitioner wanted to examine one Jijendar as defence witness. Then, the petitioner himself filed a memo stating that he is not examining the defence witness. It is the submission of the learned counsel for the respondent that the only aim of the petitioner is to protract the proceedings by filing one petition or the other. The Courts have given necessary and possible opportunities for establishing the case. Even after that the present petition is filed when the matter is pending for arguments and it is another attempt to protract the proceedings and prays for



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dismissal of this petition.

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8. Considered the rival submissions and perused the records.

9. It is seen from the submissions of the learned counsel appeared for the parties that the proceedings so far conducted in C.C.No.8556 of 2018 show that the petitioner had availed every opportunity for establishing his case. However, he has not properly utilized that opportunity. He goes on filing petition after petition and sometimes, repeated petitions for the same relief. The letter dated 28.02.2018 is available with the petitioner. If he really wants to prove this document, instead of summoning the Bank Manager, he can produce this document by examining himself as defence witness. It is not necessary to summon the Bank Manager for proving this document. So far as the complaint lodged on 27.08.2018 in CSR enquiry, the enquiry conducted by the Police and statements are recorded in the Police Station, cannot be used for any purpose in the case pending before the Court. Therefore, the reason for requiring this document cannot be accepted.



10. As far as the letter dated 02.12.2021 from Karur Vysya Bank, attached to the petitioner to establish that Ex.P4/cheque was given in the year 2014, would no way help the case of the petitioner for the reason that there is no denial of the fact that this cheque was issued to the petitioner by the Karur Vysya Bank. The respondent may not know as to when this cheque was issued to the petitioner. Even if it is established that Ex.P4, cheque was issued in the year 2014, that would no way help the case of the petitioner for the reason that he alone issued this cheque and that was dishonoured for want of sufficient funds. The reason for requiring this document cannot also be justified. The proceedings thus far taken place in C.C.No.8556 of 2018 show that the only aim of the petitioner is to protract the proceedings as long as possible by filing repeated and unwanted petitions.

11. Therefore, this Court finds that the learned FTC-1/Metropolitan Magistrate, Allikulam, Chennai has considered every aspect of the matter and rightly dismissed the petition. This Court finds no reason to interfere with the order passed by the Learned FTC-1/Metropolitan Magistrate, Allikulam, Chennai and the order passed the Learned FTC-1/Metropolitan Magistrate, Allikulam,



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Chennai, in Crl.M.P.No.37243 of 2022 in C.C.No.8556 of 2018 dated 01.12.2022

is hereby confirmed.

12. The learned FTC-1/Metropolitan Magistrate, Allikulam, Chennai, is directed to dispose of the case as expeditiously as possible, preferably within a period of one month from the date of receipt of a copy of this order.

13. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed.

14.03.2023

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

1. The FTC-1/Metropolitan Magistrate, Allikulam, Chennai.

2. The Public Prosecutor,
High Court, Madras.



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