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Crl.OP.No.11557 & 11559 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.OP.No.11557 and 11559 of 2024
and
Crl.MP.Nos.7671 and 7669 of 2024

Panner

... Petitioner
(in both Ops)

Vs.

Balakrishnan

... Respondent
(in both Ops)

Common Prayer: Criminal Original Petitions are filed under Section 482 of Cr.P.C,1973, to set aside the order passed by the learned Judicial Magistrate-II, Virudhachalam, Cuddalore District in Crl.MP.Nos.1937 and 1938 of 2023 respectively in S.T.C.No.98/2020 dated 21.02.2024.

For Petitioner : Mr.E.Kannadasan
(in both Ops)

For Respondent : No appearance
(in both Ops)



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COMMON ORDER

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2. S.T.C.No.98 of 2020 in Crl.MP.Nos.1937 and 1938 of 2023 had been assigned against this petitioner respectively for the offence under Section 138 of Negotiable Instruments Act is at the fag end of trial.

3. After completion of examining the witnesses, the complainant himself has filed an application under Section 311 of Cr.P.C to re-call witnesses and that was allowed by the Court. Thereafter, the petitioner who is the accused has filed an application under 311 of Cr.P.C to summon the witnesses already examined and also the Sub-Inspector of Police, Kammapuram Police Station to speak about the e-complaint dated 11.03.2019 given by this accused/petitioner.

4. The trial Court after considering the petition and the objection raised by the complainant has passed the following order:

“ 8. On perusal of records, it is seen that the petitioner/accused has cross examined P.W.1 Balakrishnan on the aspects of weigh bridge receipt pertaining to paddy and further the bank account statement of the petitioner/accused for the period 01.04.2017 to



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31.03.2021 was marked as Ex.P.7 and P.W.2 Vridhachalam Branch Manager, TNMB was cross examined elaborately by the petitioner/accused. Further, PW3 Indian Overseas Bank Manager, Kammapuram Branch was also examined in chief by complainant and documents were marked and cross examined by the accused. Further, the documents sought to be produced by Sub-Inspector, Kammapuram is of CSR for e-complaint given by the petitioner/accused on 11.03.2019.

9. The reasons stated by the petitioner/accused is vague one and already all the witnesses were cross examined in detail by the accused counsel. At this juncture, it is seen from the records that the petitioner/accused had exercised his opportunity to examine the listed witnesses of the present petitions by already cross examining them earlier when called by the complainant side. Again recalling the said witnesses to be examined as the defense side will prolong the trial of the case and will not serve any purpose except resulting in dragging of the proceedings with no end. Further, the petitioner/accused has not mentioned about any CSR number regarding online complaint given by the petitioner/accused. The petitioner/accused has not mentioned any CSR number or any other documentary materials which are essential to be produced by SI Kammapuram. In absence of the



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same, this Court is of the considered view that examining SI Kammapuram will not serve any purpose whereas the accused can exhibit the said CSR. in his evidence. In view of foregoing reasons and in the interest of justice, this Court is of the considered view that these petitions under Sections 243 and 311 of Cr.P.C are liable to be dismissed”.

5. The learned counsel appearing for the petitioner submits that as an accused, is always willing to complete the trial and get exonerated, he has no intention to prolong the trial, since certain questions were not put to the complainant regarding the weigh bridge. The petitioner and the Bank Manager ought to be recalled and cross-examined. That apart, the earlier complaint given by this petitioner to the police also to be elucidated to show that the complaint against him under Section 138 of Negotiable Instruments Act is not maintainable.

6. The application filed to re-call the Sub-Inspector of Police, Kammapuram, Vridhachalam Branch Manager, Tamil Nadu Mercantile Bank, Bank Manager, Indian Overseas Bank, Kammapuram Branch and the complainant Bala Krishnan does not indicate reasons to re-call them again and how the examination is relevant to the case in hand. In such circumstances, the trial Court after considering the objection had passed



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the above order.

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7. This Court on perusing the petition to re-call four witnesses found that there is no reasons assigned by the petitioner to re-call them. After examining the first three witnesses elaborately to re-call them, there should be some reason. However, from the petition, this Court finds no reason. Similarly, the 4th witness namely the Sub-Inspector of Police, Kammapuram, in what way he is connected to this case and how he should be examined are also not stated in the petition. However, some oral submissions been made before the trial Court and that has been considered and declined.

8. This Court further finds that the order passed by the Court does not carry any perversity or illegality, but supported by good reasoning. Hence, these criminal original petitions to re-call stand dismissed. Consequently, the connected miscellaneous petitions are closed.

01.08.2024

Vv

To

1. The Judicial Magistrate-II, Virudhachalam, Cuddalore District.



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2. The Public Prosecutor, High Court of Madras.

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Dr.G.JAYACHANDRAN,J.

Vv

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