IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :30.09.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.OP.No.22937of 2024
and
Crl.MP.No.13040 of 2024

M/s.K.P.R.Mill Ltd.,
Represented by Mr.A.Govindarajan .. Petitioner

Vs.

A.Angamuthu .. Respondent

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, to set aside the fair and final order dated 27.08.2024 made in Crl.MP.No.4746 of 2024 in STC.No.240 of 2018 on the file of Judicial Magistrate, Fast Track Court, Tirupur

For Petitioner : Mr.Sam Jayaraj Houston
for M/s.Sarvabhauman Associates

For Respondent : Mr.S.Nambi Aroran

O R D E R

In the private complaint instituted under Section 138 of Negotiable Instruments Act in the year 2018, after examination of the complainant and questioning the accused under Section 313 of Cr.P.C, the complainant thought fit to examine two more witnesses and filed a petition under Section 311 of Cr.P.C.

2. The trial Court on considering the nature of the petition and reason, dismissed the petition stating that the Commercial Tax Officer and the Director of the Complainant's Mill need not be summoned as additional witnesses. When the complainant's side evidence was closed, after examination of P.W.1 on 28.03.2024 and on completion of questioning the accused under Section 313 of Cr.P.C, the complainant was examined and certain questions were put to him regarding Ex.P.1. To fill up the lacuna, the petition was filed without assigning any specific reasons.

3. The learned counsel appearing for the petitioner submits that the complainant has to examine the Assistant Commissioner, Commercial Tax Department to prove supply of materials and payment of tax for the material. Further, the Director of the Company to be examined as additional witness to place certain facts on record which could not be visited through P.W.1.

4. On a perusal of the complaint in S.T.C.No.240 of 2018, this Court finds that in the complaint among the list of witnesses, the complainant and the Manager of the complainant's bank only been shown as proposed witnesses. After six years and after completing the examination of witnesses, petition under Section 311 of Cr.P.C is filed to summon the Commercial Tax Officer and the Director of the Complainant's Mill. Except stating that the examination is just and necessary, no other reasons are stated to justify summoning the witnesses at this fag end of trial. The Official witness namely Assistant Commissioner, Commercial Tax Officer cannot speak about the cheque transaction which is subject matter of the complaint.

5. As far as other additional witness the Director of the Company by name Selva Kumar, one of the representatives of the company. Already one Govindarajan examined as P.W.1 on behalf of the complainant. Having examined one witness on its behalf, nothing new can be added by examining Selva Kumar on the side of the complainant. If at all new fact which has to be elucidated through examining the witnesses, the said new fact ought to have been mentioned in the petition filed under Section 311 of Cr.P.C.

6. Having failed to disclose any new facts, the dismissal of the petition is perfectly in accordance with law which needs no interference. Hence, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petition is closed.

30.09.2024

Vv

To

1.The Judicial Magistrate,
Fast Track Court, Tirupur

2.The Public Prosecutor,
High Court of Madras.

Dr.G.JAYACHANDRAN,J.

Vv

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