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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2025

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.13140 of 2024
and Crl.M.P. No.8011 of 2024

D.Prasad

... Petitioner

Vs.

K.Gopalakrishnan

... Respondent

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to stay all further proceedings in C.A.No.458 of 2023 on the file of V Additional Sessions Judge, City Civil Court, Chennai pending disposal of above Set Aside Petition and to call for the records and set aside the order passed in Crl.M.P.No.1133 of 2024 in C.A.No.458 of 2023 on the file of V Additional Sessions Judge, City Civil Court, Chennai.

For Petitioner : Mr.D.S.Rajasekaran

For Respondent : Mr.G.Ramadurai

ORDER

This Criminal Original Petition has been filed challenging the order passed in Crl.M.P.No.1133 of 2024 in C.A.No.458 of 2023 on the file of V Additional Sessions Judge, City Civil Court, Chennai for



production of documents under Section 391 r/w. 311 of Criminal

WEB COPY Procedure Code.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials placed on record.

3. It is seen that the petitioner is an accused and the respondent is the complainant. The respondent lodged a complaint for the offence under Section 138 of the Negotiable Instruments Act, 1882 (in short 'NI Act'). After full fledged trial, the learned III Fast Track Metropolitan Magistrate, Saidapet at Chennai in C.C. No.2165 of 2018 dated 30.06.2023, had convicted the petitioner for the offence under Section 138 NI Act, and sentenced him to undergo six months Simple Imprisonment and also directed to pay the cheques amount as compensation to the complainant, in default, to undergo Simple Imprisonment of one month. Aggrieved by the same, the petitioner has preferred an Appeal. Pending Appeal, the petitioner filed an Application under Section 319 r/w 311 of Cr.P.C. to recall and adduce oral evidence by summoning the concerned officials of Income Tax Department pertaining to the Income Tax returns cum payment of tax, levy of tax of the respondent herein. The said Application was dismissed by the learned



V Additional Sessions Judge, City Civil Court, Chennai on 20.05.2024.

WEB COPY Challenging the said dismissal order, the present Criminal Original Petition has been filed by the petitioner/accused.

4. According to the learned counsel for the respondent that though sufficient opportunities were given by the Trial Court, the petitioner did not utilise the same. After the conviction order passed by the Trial Court, the Applicant wanted to produce additional documents at the stage of appeal proceedings, namely the Memorandum of Compromise dated 16.04.2024 executed between the petitioner and the tenant, the Rental Agreement executed by the petitioner in favour of the tenant dated 01.10.2014 and the Sale Agreement executed by the tenant in the capacity of power Agent, in favour of one S.K.Khadar Basha and the same is under challenge in a suit for declaration and injunction before the District Court, Kancheepuram which is pending. Those documents are completely irrelevant to the complaint filed by the petitioner, that apart, the respondent is not a party to those documents. Therefore, this petition is filed only to drag the proceedings and no purpose would be served, if the documents were produced to put forth any defence. Therefore, the Trial Court had rightly dismissed the petition and he prays for dismissal of the above Petition.



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5. In view of the above, this Court finds no infirmity or illegality in the order dated 20.05.2024 made in CrI.M.P.No.1133 of 2024 in C.A.No.458 of 2023 on the file of V Additional Sessions Judge, City Civil Court, Chennai and this petition is devoid of merits and the same is liable to be dismissed.

6. Accordingly, this Criminal Original Petition is dismissed. However, the Trial Court is directed to dispose of C.A.No.458 of 2023, within a period of three months from the date of receipt of a copy of this order. Connected Miscellaneous petition is closed.

18.02.2025

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
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To

1. The V Additional Sessions Judge, City Civil Court, Chennai.
2. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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