

T. Jothiraj Vs. T. Ashokkumar

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Court : Chennai Madurai

Decided On : Mar-21-2016

Judge : P.N. Prakash

Appeal No. : Crl.O.P.(MD) No. 4767 of 2016

Appellant : T. Jothiraj

Respondent : T. Ashokkumar

Judgement :

(Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to set aside the order passed by the learned Mahalir NeethiMandram, Fast Track Mahila Court, Karur in Crl.M.P.No.32 of 2016 in C.A.No.8 of 2015 dated 25.02.2016.)

1. This petition has been filed to set aside the order passed by the learned Mahalir NeethiMandram, Fast Track Mahila Court, Karur in Crl.M.P.No.32 of 2016 in C.A.No.8 of 2015 dated 25.02.2016.

2. Heard the learned counsel for the petitioner.

3. It is seen that this petitioner was convicted and sentenced in C.C.No.463 of 2013, challenging which, he filed an appeal in C.A.No.8 of 2015. During the pendency of appeal, the petitioner/accused filed an application in Crl.M.P.No.32 of 2016 under Section 311 Cr.P.C. for recalling Thiagarajan, who was examined as P.W.2 in the Trial Court, on the ground that he has to be confronted with the

Power of Attorney dated 10.04.2013, in which the said Thiagarajan has signed as witness.

4. It is also seen that Thiagarajan has been examined as P.W.2 in order to speak about the factum of the accused borrowing loan on promissory note from the complainant on 27.02.2013. In fact, during cross examination, the said Thiagarajan has stated that he does not know anything about the impugned cheque.

5. It is contended by the learned counsel for the petitioner that the said Thiagarajan in his cross examination had stated that he had nothing to do with Maharaja Financiers, but whereas the Power of Attorney shows that he had signed as witness, in which, Maharaja Financiers had executed the same in favour of one Anandakumar.

6. On a careful reading of the evidence of Thiagarajan, he has nowhere stated that he does not know anything about Maharaja Financiers, but he has only stated that he is not looking after the accounts of Maharaja Financiers. This aspect has been considered by the Lower Appellate Court and the petition filed by the petitioner in Crl.M.P.No.32 of 2016 has been dismissed. The power under Section 391 Cr.P.C. has to be very carefully exercised and it should not be allowed to prolong a criminal appeal. Therefore, this Court finds that there is no infirmity in the order dated 25.02.2016, passed by the learned Mahalir Neethi Mandram, Fast Track Mahila Court, Karur.

In the result, this Criminal Original Petition is devoid of merits and the same is dismissed accordingly. Consequently, connected miscellaneous petition is closed.

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