

(2006) 07 MAD CK 0109

In the Madras High Court

Case No : Criminal Original Petition No. 16006 of 2006

K. Ramaiah

APPELLANT

Vs

R. Sudhakara Naidu

RESPONDENT

Date of Decision : 04-07-2006

Acts Referred:

Criminal Rules of Practice and Circular Orders, 1990 — Rule 339
Negotiable Instruments Act, 1881 (NI) — Section 138

Citation : (2007) 2 BC 353 : (2006) CriLJ 3581 : (2006) 4 CTC 481

Hon'ble Judges : C. Nagappan, J

Bench : Single Bench

Advocate : K. Santhakumari, ,

Final Decision :

Judgement

C. Nagappan, J.

The petitioner has sought for a direction to the Judicial Magistrate, Tiruttani, to receive the copy application filed by the counsel for the petitioner and furnish certified copies of the complaint and related documents in C.C. No. 10 of 2005 within a time frame.

2. The petitioner is the accused in the case facing trial for the alleged offence u/s 138 of the Negotiable Instruments Act and according to him, his counsel presented a copy application on 05.04.2006 seeking for certified copies of the complaint and related documents and the learned Magistrate refused to receive the application, which necessitated him to file this petition.

3. Considering the nature of the prayer sought for, there is no necessity to issue a notice to the respondent. Heard the learned counsel for the petitioner.

4. Rule 339 of the Criminal Rules of Practice provides for issuance of copies to parties and it stipulates that copies of any portion of the record of a criminal case must be furnished to the parties concerned on payment of the proper stamp and the authorised fee for copying.

5. Pratap Singh J., in the decision in Subramanian v. State through the Vigilance and Anticorruption, Cuddalore 1994 2 L.W. (Cri) 773 (1), held that docket entry is also portion of record of a criminal case and it has to be furnished to a party on payment of proper stamp and authorised fee for copying.

6. M. Karpagavinayagam, J., in the decision in Ramesh v. A. Ramanujan 1998 1 L.W (Cri) 1, held that the accused is entitled to the copy of the complaint the moment he received the summons.

7. Following the above decision, B. Akbar Basha Khadiri, J., in the decision in V.G.K. Murthy v. Vikas Plastic Electro Chemical Pvt. Ltd. 2001 1 CTC 24, observed that copies of any portion of the record must be furnished to the accused as provided under Rule 339 of the Criminal Rules of Practice.

8. The Trial Court cannot refuse to receive the copy application and it is bound to follow Rule 339 in so far as copies to be given to the parties are concerned.

9. It is open to the petitioner to present the copy application before the Trial Court within two weeks from today and on its being so presented, the Trial Court is directed to receive the same and adhere to Rule 339 of the Criminal Rules of Practice.

This petition is ordered accordingly.