

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.12.2015

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.R.C.Nos.1244 and 1245 of 2015

&

M.P.No.1 of 2010

Mohammed Iqbal
S/o.Abdul Ali

.. Petitioner
in both petitions (Accused)

vs.

Avanashi Agricultural Producers
Co-operative Marketing Society Ltd.,
Rep.by Mr.G.Moses Ratinam Pillai
Co-operative Sub-Registrar/
Managing Director
(Full Additional Charge)
Avinasi
Tiruppur District

.. Respondent
in both petitions
(Complainant)

Crl.R.C.Nos.1244 of 2015: Criminal Revision filed under sections 397 and 401 Cr.P.C. to set aside the order dated 12.10.2015 made in C.M.P.No.5327 of 2015 in C.C.No.331 of 2003 on the file of Judicial Magistrate, Avinasi.

Crl.R.C.Nos.1245 of 2015: Criminal Revision filed under sections 397 and 401 Cr.P.C. to set aside the order dated 12.10.2015 made in C.M.P.No.5332 of 2015 in C.C.No.332 of 2003 on the file of Judicial Magistrate, Avinasi.

For Petitioner : Mr.D.Selvaraju

For Respondent : No Appearance

C O M M O N O R D E R

These revisions challenge the orders of the learned Judicial Magistrate, Avinashi dated 12.10.2015 passed in C.M.P.No.5237 of 2015 and C.M.P.No.5332 of 2015.

2. The petitioner is an accused in case pending trial in C.C.Nos.331 and 332 of 2003 on the file of Judicial Magistrate,

Avinasi, for offence under Section 138 of the Negotiable Instruments Act. The respondent/complainant had examined one Palanisamy as PW1. Thereafter, informing that such person stood transferred, the respondent moved a petition in C.M.P.Nos.5332 of 2015 and 5237 of 2015 to eschew the evidence tendered by Palanisamy (PW1) and in his place, examine one Moses Ratinam Pillai as PW1. Upon such applications being allowed, the petitioner/accused has filed the present revisions.

3. Heard learned counsel for petitioner.

4. Though the respondent stands served, there is no representation on its behalf. Evidence once duly recorded cannot be eschewed from consideration. If the prosecution is unable to produce the witness examined in chief, certain adverse consequence may flow. It is the duty of the prosecution to produce the witness examined in chief for the purpose of cross-examination and none else can be blamed if they fail to do so.

5. For the reasons above stated, these revisions shall stand allowed and the orders of the learned Judicial Magistrate, Avinashi dated 12.10.2015 passed in C.M.P.No.5237 of 2015 and C.M.P.No.5332 of 2015 shall stand set aside. The above order is passed without prejudice to the respondent/complainant right to prove its case through examination of other witnesses. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

gpa

To

1. The Judicial Magistrate
Avinasi.

2. do thro the Chief Judicial Magistrate
Tirupur District

1 cc to Mr.D. Selvaraju, Advocate, Sr. 69430

CrI.R.C.Nos.1244 and 1245 of 2015 &
M.P.No.1 & 1 of 2015

SV (CO)
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