

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.857 of 2015
and
M.P.No.1 of 2015

S.Ramasamy

...Petitioner

vs

Manikandan

...Respondent

Criminal Revision case filed under Sections 397 and 401 of Cr.P.C. against the order dated 09.07.2015 passed by the learned Judicial Magistrate No.I, Fast Track Court, Erode in CrI.MP.No.7364 of 2014.

For Petitioner : Mr.K.M.Subramaniam

ORDER

This Criminal Revision Case is preferred as against the order dated 09.07.2015 passed by the learned Judicial Magistrate, Fast Track Court-I, Erode in CrI.MP.No.7364 of 2014 in S.T.C.No.189 of 2011 insofar as dismissing the relief sought for by the petitioner to examine the Junior Telecom Officer, BSNL, Erode and the Manager of Bharti Airtel Limited, Madras as witnesses in the case.

2. The case of the petitioner in brief is as follows:

The respondent herein has filed STC No.189 of 2011 before the Court below as against the petitioner for the alleged offence under Section 138 of the Negotiable Instruments Act. When the said case was adjourned for recording the evidence of the accused, the petitioner preferred a petition under Section 254(2) of the Cr.P.C seeking to examine the Junior Telecom Officer, BSNL, Erode, Manager, Bharti Airtel Limited, Madras and one D.Sabarinathan. Though the Court below permitted the petitioner to examine the said Sabarinathan as a defence witness in this case, dismissed the petition in seeking to examine the Government Official belonging to BSNL Department and the Officer belonging to Bharti Airtel Limited. Hence, the revision.

3. The grievance of the petitioner is that he had money transactions only with one D.Sabarinathan and not with the respondent/defacto complainant. When that being so, the Court below ought not to have dismissed the petition filed by the petitioner seeking to examine the officials belonging to the Telecom Department for proving the fact that the defacto complainant and the said Sabarinathan had contacts with each other by producing their call records. Accordingly, he would pray for setting aside the order passed by the Court below.

4. I have heard the learned counsel for the petitioner and perused the records.

5. On a careful perusal of the order passed by the Court below, it is seen that it had correctly dismissed the petition filed by the petitioner seeking to examine the Government Officials of the Telecom Department to produce the call records pertaining to the defacto complainant and the third party, as the personal details of the third parties cannot be produced at the instance of the accused, as the same is barred under the Rules. However, it had permitted the petitioner to examine the said D.Sabarinathan as a witness in this case.

6. In view of the above, I do not find any ground to interfere with the reasoned order passed by the Court below.

7. At this juncture, the learned counsel for the petitioner would only seek permission of this Court to give him liberty to call for any documents, which the petitioner may deem it fit for proper conduct of the case. It is needless to mention that it is always open to the petitioner to produce any evidence that may be available with him with the permission of the Court concerned.

8. With the above observation, this Criminal Revision Case is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IV)

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Sub Assistant Registrar

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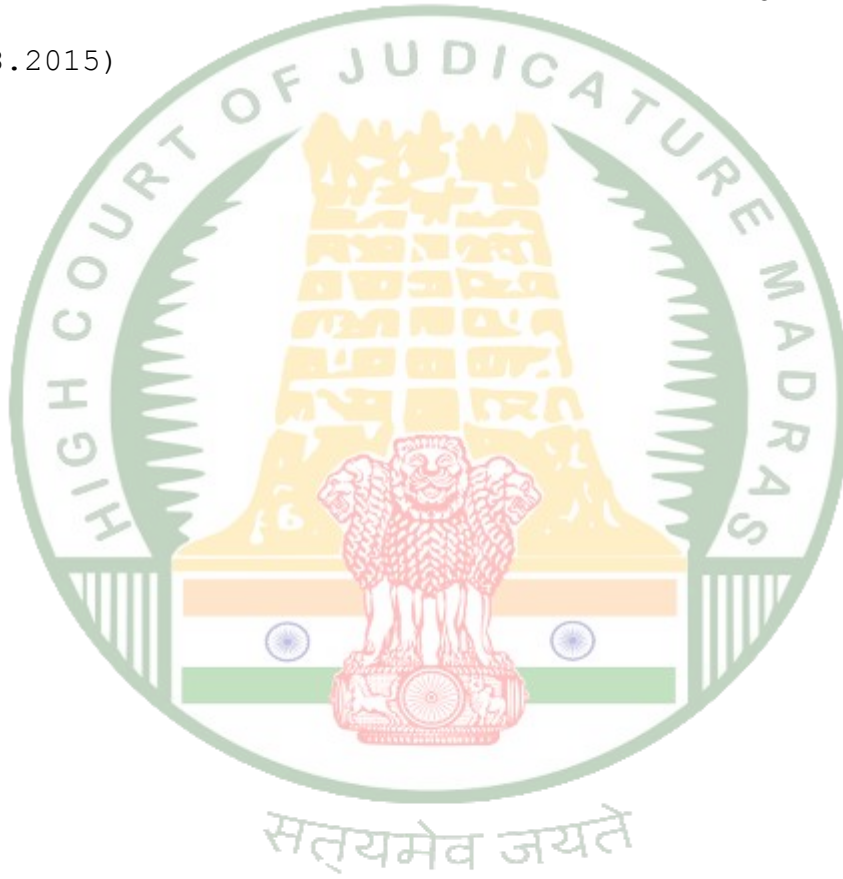
To

The Judicial Magistrate No.I,
Fast Track Court,
Erode.

1 CC to Mr.K.M.Subramaniam, Advocate SR.No. 43660

Crl RC No.857 of 2015

KGK (CO)
PSI (21.08.2015)



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