

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2016

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Crl.R.C.Nos.1750 of 2011

and

M.P.No.1 of 2012

Reserve Bank of India

Department of Non-Banking Supervision,
Fort Glacis, Rajaji Salai,
Chennai.

Rep. By its Authorised Signatory

Mr.D.R.Kulkarni, Asst. General

Mansager.

... Petitioner/Complainant

vs

K.M.Sharma

... Respondent/Accused

Criminal Revision filed under section 397 r/w 401 of the Code of Criminal Procedure, to set aside the order dated 19.08.2011 passed by the learned Additional Chief Metropolitan Magistrate, E.O.I, Egmore, Chennai in E.O.C.C.No.2 of 2005 and restore the complaint.

For Petitioner : M/s.T.Poornam

For Respondent : No appearance

O R D E R

The petitioner has filed a private complaint against the respondent and 6 others for the offence under Sections 45QA r/w Sections 58-B and 58-C of the Reserve Bank of India Act, 1934. Totally, there are seven accused in this case. The respondent is arrayed as A-3 and he was one of the Directors of the company. The petitioner has taken steps to serve summons to all the accused. Except this respondent, all the other accused received summons and they are facing trial. Since the respondent, who has been arrayed as 3rd accused was evading the summons, the case was split up against the respondent and the trial is pending against the other accused. So far as the respondent is concerned, the petitioner took several steps to serve summons on the respondent, but he deliberately evading the receipt of the summons. Hence, the petitioner has filed a petition under

Section 65 of Cr.P.C. seeking for substituted service of the summons. When the said petition came up for hearing on 19.08.2011, the learned Additional Chief Metropolitan Magistrate, (E.O.I), returned the petition and dismissed the complaint for default stating that steps not taken even though sufficient opportunity was given.

2. It is seen from the records that the petitioner has already taken steps to serve summons since the respondent evading they themselves filed an application seeking substituted service, but the learned trial Judge after returning the above petition dismissed the complaint for default. Since the petitioner has taken sincere steps, the learned trial Judge ought not to have dismissed the complaint for default, stating that no steps were taken.

3. In the facts and circumstances of the case, the impugned order passed by the learned Additional Chief Metropolitan Magistrate, E.O.1, Egmore, Chennai dated 19.08.2011 made in E.O.C.C.No.02 of 2005 is set aside and the learned Additional Chief Metropolitan Magistrate, E.O.1, Egmore, Chennai is directed to restore the complaint and issue fresh summons to the respondent and proceed in accordance with law.

4. With the above observation, this Criminal Revision Case is allowed. Consequently, connected M.P. Is closed.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To
The Additional Chief Metropolitan Magistrate,
E.O.1, Egmore,
Chennai.

rv(co)
krd 30/12

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