

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.08.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Cr1.R.C.No.586 of 2015

and

MP.No.1 of 2015

A.V.Ravichandran

..Petitioner/Petitioner/Accused

Vs.

M/s.Sree Gokulam chit & Finance Company Pvt. Ltd.,
Rep by its Authorised Representative
Mr.V.Karnan

..Respondent/Respondent/Complainant

Prayer :- Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C. to set aside the order passed by the learned Metropolitan Magistrate, Fast Track Court No.II, Egmore, Chennai in CMP.No.170 of 2015 in CC.No.5288 of 2006 dated 15.05.2015.

For Petitioner : Mr.R.Marudhachalamurthy

For Respondent : Mr.T.C.Sajithbabu for
M/s.Prince Associates.

ORDER

This Criminal Revision is directed against the order passed by the learned Metropolitan Magistrate, Fast Track Court No.II, Egmore, Chennai in CMP.No.170 of 2015 in CC.No.5288 of 2006 dated 15.05.2015, dismissing the application filed under Section 315 Cr.PC to examine the petitioner and to adduce evidence on his side.

2.The learned counsel for the petitioner mainly contended that in this case, the reopen petition was filed on the side of the petitioner to examine himself as defence witness to put forth the case, since, there is no serious objection on the side of the respondent/complainant, the complainant is ready to examine himself as witnesses at any point of time fixed by this Court and he undertakes to cooperate with the trial Court for expedite trial, as and when directed by the trial Court to

examine himself as defence witness. But the trial Court without application of mind dismissed the application, since it was filed at the later stage and there is no sufficient reasons adduced by the Court and erroneously dismissed the application without assigning any valid reasons and the order of the trial Court is liable to be set aside and prays to allow the revision.

3.The learned counsel for the respondent contended that the petition to reopen is filed only to drag on the proceedings and there is no illegality or infirmity in the order of trial Court and prays to dismiss the revision petition.

4.Admittedly, in this case three CC.Nos. were registered against the accused and the case was posted for arguments, at this stage, the petitioner filed the present petition to reopen the evidence, the petition is filed only with an intention to drag on the proceedings, which is liable to be dismissed.

5.On reading of the order passed by the trial Court, it is clear that the present petition to reopen filed under Section 315 Cr.PC to examine the accused himself as defence witness, the complainant has not filed any counter, even though the counter was not filed on the side of the complainant, the trial Court after perusing the records, dismissed the application, as if the petition is filed only to drag on the proceedings. The case is at the stage of arguments, the petitioner wants to prove his own case by examining himself as DW1, the case was filed during the year 2006. During the course of argument stage, the present petition was filed by the revision petitioner/accused, the complainant has not filed any counter in the said petition.

6.In view of the above circumstances, the trial Court ought to have given one more opportunity to examine the accused himself as defendant side witnesses, the respondent has not filed any counter, without giving any opportunity to the accused, the trial Court erroneously dismissed the petition filed by the revision petitioner. This Court is of the considered view that the order passed by the trial Court is liable to be set aside and the revision has to be allowed by giving one more opportunity to the revision petitioner to examine himself as defendant side witnesses.

7.In the result, the criminal revision is allowed by setting aside the order passed by the learned Metropolitan Magistrate, Fast Track Court No.II, Egmore, Chennai made in CMP.No.170 of 2015 in CC.No.5288 of 2006 dated 15.05.2015. The trial Court is directed to give one more opportunity to the petitioner to examine himself as defence witness and close the witness of defence in this case, within one week from the date of receipt of a copy of this order. After giving opportunity to both sides, the trial Court is directed to dispose of the main case

in accordance with law within a period of two weeks from the date of closing of the defence witness, therefrom, and report the same to this Registry. Consequently, connected miscellaneous petition is closed.

tsh

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Metropolitan Magistrate,
Fast Track Court No.II, Egmore, Chennai .

+ 1 cc to Mr.R.Marudhachalamurthy, Advocate Sr 46262
+ 1 cc to M/s.Prince Associates, Advocate Sr 46285

KR/1/9/16

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