

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Orders Reserved on : 23.06.2016)

DATED : 07.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Crl.R.C.No.406 of 2016

and

Crl.M.P.No.3254 of 2016

V.S.Bosco

... Petitioner

Vs.

1. A.P.Rayan
2. S.C.Sebastian @ Schezhiyan
3. A.Susai Nayagam
4. T.S.Sahayam Fernando
5. Jega P.Rayan
6. J.Lourduswamy
7. A.Lenin Manual
8. V.Arockiasamy
9. Babu Raj
10. A.Antony Xavier

... Respondents

Prayer: Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure, praying to call for the records and set aside the order in Crl.M.P.No.6593 of 2015 in C.C.No.5194 of 2011, dated 31.12.2015 passed by the learned Chief Metropolitan Magistrate, Allikulam, Chennai.

For Petitioner : M/s.V.Yamunadevi

For Respondents : Mr.K.Perumal

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ORDER

This Criminal Revision Case is directed against the order passed by the learned Chief Metropolitan Magistrate, Allikulam, Chennai, in Crl.M.P.No.6593 of 2015 in C.C.No.5194 of 2011, dated 31.12.2015, rejecting the request of the petitioner to issue summons to the petition mentioned persons as witnesses to appear before the Court and to depose the facts in order to the just decision of the case.

2. The learned counsel appearing for the petitioner would mainly contend that the trial Court, without considering the

facts of the case and point of law, dismissed the petition filed by the petitioner for issuing summons to the petition mentioned persons as witnesses to appear before the Court and to depose the facts in order to the just decision of the case. The trial Court has committed an error in interpreting the position of law under Section 311 of Cr.P.C. and also committed grave injustice to the petitioner herein by holding that he has no locus standi to file the main petition itself without proper application of mind and with great disrespect to the Apex Court. Hence, the learned counsel for the petitioner prayed that the criminal revision case may be allowed and the order of the trial Court may be set aside.

3. The learned counsel for the respondents would vehemently contend that the trial Court, after considering the entire facts and circumstances of the case, came to a correct conclusion in dismissing the petition filed by the petitioner for issuing summons to the petition mentioned persons as witnesses to appear before the Court and to depose the facts in order to the just decision of the case. There is no infirmity or illegality in the order passed by the trial Court and hence, the criminal revision case may be dismissed.

4. In this case, it is useful to refer Section 311 of Cr.P.C., which reads as follows:-

"311. Power to summon material witness, or examine person present.

Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case."

5. On plain reading of the complaint filed under Section 200 Cr.P.C., the petitioner has mentioned only the names of two witnesses (i.e., V.S. Bosco/complainant and Selvam) and filed nine documents before the Chief Metropolitan Magistrate Court. Now, after examination of PW1/Complainant/Bosco, the revision petitioner/complainant has come forward with the CrI.MP.No.6593 of 2015 to summon five more persons and to depose their statement. The petitioner has not mentioned anything about the persons in the CrI.MP.6593 of 2015 and their connection with the present private complainant. The petitioner is not entitled to examine any additional witnesses other than the witnesses mentioned in the private complaint, the trial Court after appreciating the entire facts and circumstances of the case, correctly dismissed the application filed by the petitioner. This Court is of the considered view that there is no illegality or infirmity in the order

passed by the learned Chief Metropolitan Magistrate, Allikulam, Chennai and the same does not warrant any interference by this Court.

6.In the result, the criminal revision stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Jr1 / tsh

To

The Chief Metropolitan Magistrate,
Allikulam, Chennai - 3.

+1cc to Mr.K.Perumal, Advocate, S.R.No.57758

+1cc to Mr.S.Mohanavadivelan, Adv, S.R.No.58015

Cr1.R.C.No.406 of 2016

RV (CO)
CA(24/10/2016)



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