

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2017

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

Criminal Revision No.799 of 2017

and Crl.M.P.No.7311 of 2017

1.K.R.Ganapathy Raj

Prop.M/s.Prabja Signs Media Solutions

No.3/26, Kamarajar Salai

Senthamizh Nagar

Ramapuram, Chennai-600 089

2.M/s.Prabha Signs Media Solutions

No.3/26, Kamarajar Salai

Senthamizh Nagar

Ramapuram, Chennai-600 089 ... Petitioners/Accused

versus

V.M.Subhashree

... Respondent/Complainant

Prayer :- Criminal Revision filed against the Common order dated 18.04.2017 passed by the Fast Track, Magisterial Level No.II, Poonamallee, Thriuvallur District in C.M.P.No.1876 of 2017 in S.T.C.No.13 of 2016.

For Petitioners : Mr.K.Elangoo

For Respondent : Mr.Manoj Sreevatsan

ORDER

The case of the complainant is that the accused had availed a hand loan of Rs.2,50,000/- on 04.04.2013 and agreed to repay the sum with interest at 24% per annum within 3 months, but the accused failed to discharge the loan and, thereafter, he issued a cheque for Rs.1,75,000/- as part payment due and payable to the complainant. In the trial court, the accused took the plea that he has not availed loan in the year 2013 and he did not issue Ex.P.1 cheque to the complainant.

2. The case of the accused is that only by cross-examining V.M.Subhashree, i.e., the principal, he would be able to establish his case. The petition filed by the accused under Section 311 Cr.P.C., to cross examine witnesses V.M.Subashree and Manager of HDFC Bank was dismissed. Challenging the same, Revision Petition has been filed.

3. The learned counsel appearing on behalf of the complainant submits that neither V.M.Subhashree, the principal, has been examined before the trial court nor the Manager of HDFC Bank and therefore, there is no question of permitting the accused to cross examine them as witnesses.

4. The learned counsel appearing for the accused submits that in respect of the transaction and also for the purpose of cross examination by the defence (1) Subhashree, (2) The Manager, H.D.F.C. Bank Ltd., Porur and (3) The Manager, Lakshmi Vilas Bank, Ramapuram, must be examined on the side of the accused.

5. The accused has no right to compel the complainant being examined as witness on the side of the accused. At the most, the accused could only request the court to draw adverse inference if the main witness is not produced before the trial court.

6. Under the circumstances, Revision against the dismissal of the application filed under Section 311 Cr.P.C., is not maintainable. The learned Magistrate in paragraph 19 of the order has very clearly stated that the proposed witnesses V.M.Subhashree, the Manager of the HDFC Bank Ltd., were not examined by the complainant at all. Therefore, there is no question for filing the petition under Section 311 Cr.P.C., for cross examining the proposed witnesses. This Court is of the opinion that there is no infirmity in the order passed by the learned Magistrate in dismissing the application filed under Section 311 Cr.P.C. Hence, the Revision Petition has no merits and the same is dismissed. Consequently, connected MP is closed.

nvsri

Sd/-

Assistant Registrar (CS IX)

//True copy// सत्यमेव जयते

Sub Assistant Registrar

To

1. The Fast Track, Magisterial Level No.II,
Poonamallee, Thiruvallur District.

+1cc to Mr.Elango, Advocate SR.No.73082

Criminal Revision No.799 of 2017
and Crl.M.P.No.7311 of 2017

MG (CO)
GN (14/02/2018)