

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2017

CORAM

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.R.C.No. 423 of 2011
and M.P.No.1 of 2011

Lakshmi Agencies

represented by Managing Partner,

C.R.Umapathy

No.4, Maraimalai Adigal Salai,

Pondicherry - 1

... Petitioner/Respondent
/Respondent/Accused

Vs.

R.Meenakshi

represented by Power of Attorney Agent

A.Ravichandran

No.11, Old No.10th Cross street,

Tagore Nagar, Lawspet,

Pondicherry - 8

... Respondent/Petitioner/
Petitioner/Complainant

Prayer:- Petition filed under Section 397 & 401 Cr.P.C. praying to set aside the order passed by the II Additional Sessions Judge, Pondicherry, dated 11.01.2011 in Crl.R.C.No.7 of 2010 allowing the Revision preferred by the Respondent/Complainant against the order passed by the II Additional District Munsif, Pondicherry in C.M.P.971 of 2009 in C.C.No.135 of 2008 dated 12.11.2009 (Previously C.C.No.159/2007) on the file of J.M.No.II, Pondicherry) सत्यमेव जयते

For Petitioner : Mr. S.Swamidoss Manokaran

For Respondent : Mr. T.P.Manoharan

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O R D E R

Challenging the order passed by the II Additional Sessions Judge, Pondicherry allowing the petition filed by the complainant to examine the Bank Manager, Corporation Bank, Pondicherry and the Manager, Bank of Baroda, Pondicherry and the Manager, Pondicherry State Co-operative Bank, Pondicherry this revision has been filed by the petitioner/accused. Earlier the

respondent filed a complaint against the petitioner herein under Section 138 of the Negotiable Instruments Act, in C.C.No.159 of 2007 on the file of the Judicial Magistrate-II Pondicherry. After examining herself as PW1, a petition was filed by the respondent/complainant under Section 244(2) of Cr.P.C. to examine three more witnesses, namely, the Manager, Corporation Bank, Pondicherry, the Manager, Bank of Baroda, Pondicherry, the Manager, the Pondicherry State Co-operative Bank, Bushy branch, Bushy street, Pondicherry. The learned Judicial Magistrate partly allowed the application permitting the complainant to examine the Bank Managers of Corporation Bank and Bank of Baroda, Pondicherry, however, dismissed the application in respect of the third witness, namely the Bank Manager, Pondicherry State Co-operative Bank. Challenging the said order, the complainant filed a revision in CrI.R.C. No.7 of 2010, on the file of the II Additional Sessions Judge, Pondicherry. The revisional Court allowed the revision, thereby directing the Judicial Magistrate to issue summons to the witness 3 also, namely, Bank Manager, The Pondicherry State Co-operative Bank. Challenging the above order, the petitioner/accused has filed the present petition.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

3. The learned counsel for the petitioner vehemently contended that even the petition filed by the defacto complainant no specific reason was stated as to why he wants to examine the Manager of the State Co-operative Bank, Pondicherry, as the said witness as he is no way connected with the transaction and the revision Court ought not to have allowed the revision filed by the defacto complainant and permitted the Judicial Magistrate to issue summons to the third witness namely the Bank Manager, State Co-operative Bank, Pondicherry.

4. The learned counsel for the respondent submitted that since the Branch Manager of Pondicherry Co-operative Bank is also a necessary party in this case, he has to be examined and being a complainant an opportunity has to be given to prove her case.

5. I have considered the rival submissions, even though there is no reason stated in the petition filed by the defacto complainant for examination of the disputed witness, since the petitioner being the complainant, it is her primary duty to prove her case and she can examine any witness for that purpose and the respondent being the accused it is always open to him to cross examine the witnesses examined by the prosecution side. The petitioner being an accused cannot prevent the complainant from examining any witness to prove her case. In the above

circumstances I find no illegality or irregularity in the order passed by the Courts below. Since the matter is pending from 2006, the trial Court is directed to complete the trial within a period of six months from the date of receipt of a copy of this order.

6. With the above direction, the criminal revision is dismissed. Consequently connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate-II, Pondicherry.
2. -Do-Thro The Chief Judicial Magistrate, Pondicherry.
3. The II Additional Sessions Judge, Pondicherry.
4. The Principal Sessions Judge, Pondicherry.
5. The II Additional District Munsif, Pondicherry.
6. The Principal District Munsif, Pondicherry.

+1cc to Mr.S.Swamidoss Manokaran, Advocate SR.2178

+1cc to Mr.T.P.Manoharan, Advocate SR.2569

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srg 11/01/2017