

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 05.10.2018
CORAM
THE HONOURABLE Mr.JUSTICE M.DHANDAPANI
CRL.R.C.No.1029 of 2018 &
Crl.M.P.No.12135 of 2018

R.Rajasekar .. Petitioner

Vs

E.M.Palanisamy .. Respondent

PRAYER: Criminal Revision petition has been filed under Sections 397 and 401 of the Code of Criminal Procedure, to set aside the order in C.M.P.No.50 of 2018 in C.A.No.13 of 2018 dated 20.04.2018 passed by the I Additional District and Sessions Judge, Erode.

For Petitioner : Mr.R.Rajiv Gandhi

O R D E R

As against the order dated 20.04.2018 passed by the I Additional District and Sessions Judge, Erode, in C.M.P.No.50 of 2018, filed by the petitioner under Section 391 Cr.P.C. to permit the petitioner to examine and depose chief examination at the stage for the purpose of marking of medical reports and examine the Doctors who treated him at the Sudha Hospitals (SIMS), Erode and Aiswarya Hospital at Salem, the present revision has been filed.

2.For the sake of convenience, the petitioner and the respondent will be referred to as the accused and the complainant.

3.The learned counsel for the accused would submit that for dishonour of the cheque issued by the accused in favour of the complainant, he had initiated proceedings under Section 138 of the Negotiable Instruments Act in S.T.C.No.170 of 2017 before the Judicial Magistrate, Fast Track Court I, Erode, against the petitioner. On 05.12.2017, the lower Court convicted the accused and sentenced to undergo 10 months simple imprisonment for the offence under Section 255(2) Cr.P.C. And to pay sum of Rs.18 lakhs [entire cheque amount] payable to the complainant, in default, to undergo two months simple imprisonment. As against the order of conviction by the lower Court, the accused preferred appeal in C.A.No.13 of 2018 before the I Additional District Judge, Erode, wherein the accused filed Crl.M.P.Nos.49 & 50 of 2018 seeking to re-open the case to permit the petitioner to examine himself and filed the medical reports and to examine the Doctors who treated him at Sudha Hospitals (SIMS), Erode and Aiswarya Hospital at Salem and also seeking to permit the petitioner to examine and depose chief examination at the stage for the purpose of marking of medical reports and examine the Doctors who treated him at Sudha Hospitals (SIMS), Erode and Aiswarya Hospital at Salem. However, the lower Court without considering the case of the petitioner and without giving an opportunity to examine the witness to arrive at a proper conclusion of the complaint, dismissed the petitions. Hence, he prays to allow this revision.

4.Considering the fact that the ailment of the accused is nothing to do with the case and the petitioner did not explain for what purpose the examination and evidence of the Doctor is necessary for disposal of the Criminal Appeal pending before the lower Appellate Court. In the absence of the proper explanation and pleadings, the interference of the lower Court order does not arise, I am not inclined to interfere with the order impugned in this revision. Accordingly, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

05.10.2018

Speaking Order/Non-speaking Order

Index : Yes/No

Internet : Yes/No

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To

The I Additional District & Sessions Judge,
Erode.

M.DHANDAPANI, J

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