IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.313 of 2013

M/s.Shivsu Canadian Clear International Limited,
No.149, EVR Lane, Poonamallee High Road,
Kilpauk, Chennai-600 010.
Rep. By its Senior General Manager,
Mr.B.Sreekumar.

...Petitioner/Complainant

Vs.

P.Rejith Kumar ...Respondent/Accused

The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure against order dated 30.10.2012 made in Crl.M.P.No.2488 of 2012 by the learned II Metropolitan Magistrate, Egmore, Chennai.

For Petitioner : Mr.Suresh

For Respondent : Notice Served - No Appearance

ORDER

This criminal revision has been filed against order dated 30.10.2012 made in Crl.M.P.No.2488 of 2012 by the learned II Metropolitan Magistrate, Egmore, Chennai.

2 It is the case of the complainant Company that the accused is an employee of the complainant Company. While he was acting as Regional General Manager of the complainant Company, he received a sum of Rs.2,50,000/- from one customer and Rs.1,50,000/- from another customer of the complainant Company by name ARK IMPEX, without the knowledge of the complainant Company and thus he misappropriated the money and committed breach of trust.

3 The complainant Company filed a private complaint before the learned II Metropolitan Magistrate in M.P.No.2488 of 2012 and the learned Magistrate by order dated 30.10.2012

dismissed the same on the ground that there was no whisper about any existing business relationship either with the accused or with the customers, from whom the accused misappropriated the money.

4 Aggrieved against the above order dated 30.10.2012, the complainant Company has preferred this present criminal revision before this Court.

5 Learned counsel for the petitioner would submit that the respondent was appointed as Regional General Manager, Karnataka, on 06.06.2008. While he was acting as Regional General Manager of the complainant Company, he received a sum of Rs.2,50,000/- from one customer and Rs.1,50,000/- to another customer of the complainant Company by name ARK IMPEX, without the knowledge of the complainant Company and thus he misappropriated the money and committed breach of trust. In the complaint, the facts were clearly narrated and the learned Magistrate has failed to consider the averments made in the complaint.

6 Despite notice served and name of the respondent also printed in the cause list, none appeared on behalf of the respondent. Heard the learned counsel for the petitioner and perused the materials available on record.

7 On a perusal of the order dated 30.10.2012 made in M.P.No.2488 of 2012, it reveals that the learned Magistrate had dismissed the petition filed by the petitioner, on the ground that there was no whisper about the existing business relationship between the petitioner and the ShriGenji Aqua Pvt. Ltd., from whom, it was alleged that the accused received a sum of Rs.2,50,000/-. Today, the learned counsel for the petitioner has produced invoices and bills, which shows that the complainant had a business relationship with the ShriGenji Aqua Pvt. Ltd., from whom, the accused received money, without the knowledge of the complainant Company. Hence this Court is inclined to allow this revision and remit back the matter to the Court below.

8 In view of the above, this criminal revision is allowed and the order dated 30.10.2012 made in M.P.No.2488 of 2012 by the learned II Metropolitan Magistrate, Egmore, Chennai, is hereby set aside. The learned Magistrate is directed to take the complaint filed by the petitioner herein, on file and proceed the matter in accordance with law.



Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

The II Metropolitan Magistrate,
Egmore, Chennai.

+1cc to Mr.Suresh Associates, Advocate, S.R.No. 62775

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RSI(CO)
GN(30/10/2018)