

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.218 of 2019 and
Crl.M.P.No.2315 of 2019

Sanjay P.Bisani

... Petitioner

-Vs-

State represented by:

The Inspector of Police,
W-25, All Women Police Station,
Chennai.

.... Respondent

This Criminal Revision Case is filed under Sections 397 read with Section 401 of Cr.P.C. to set aside the impugned order dated 10.01.2019 passed in Crl.M.P.No.527 of 2018 in C.A.No.325 of 2018 against C.C.No.7093 of 2007 by the XVII Additional City Civil Court, Chennai and direct the XVII Additional City Civil Court to take the counter dated 22.01.2018 filed by the defacto complainant in H.M.O.P.No.2899 of 2011, as additional evidence on record in C.C.No.7093 of 2007 or direct it to be taken by the trial Court in C.C.No.70936 of 2007 on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai.

For Petitioner : Mr.M.L.Joseph for
M/s.Chennai Law Associates

For Respondent : Mr.R.Surya Prakash,
Government Advocate (Crl.Side)

ORDER

Based on the complaint given by the defacto complainant, respondent police registered a case against the petitioner under Sections 498-A, 294(b) and 506(ii) of IPC in Cr.No.15 of 2007. After investigation, the respondent police has filed a charge sheet before the trial Court which was taken on file in C.C.No.7093 of 2007. The trial Court, after advertng to the materials placed on record, by judgment dated 05.06.2018, convicted the petitioner, against which, the petitioner has filed an appeal before the XVII Additional City Civil Court, Chennai, in C.A.No.325 of 2018. Pending the above appeal, the petitioner has filed a miscellaneous petition under Section 391 of Cr.P.C. seeking to adduce additional evidence and the learned Judge, by order dated 10.01.2019 has dismissed the same.

Aggrieved against the above order dated 10.01.2019, the petitioner is before this Court.

2 The learned counsel for the petitioner would submit that there is no limitation to invoke Section 391 of Cr.P.C., if the petitioner wants to prove his case with the vital document, he can invoke Section 391 of Cr.P.C at any stage. In support of his contentions the learned counsel relied on the decision of the Hon'ble Supreme Court in Criminal Appeal No.148 of 2019 (Brig. Sukhjeet Singh (Retd.) MVC vs. The State of Uttar Pradesh and others). The Court below failed to consider the above aspect and erroneously dismissed the petition filed by the petitioner under Section 391 of Cr.P.C, which warrants interference.

3 The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the document which was sought to be marked by the petitioner is not necessary to decide the appeal by the Court below. Hence the Court has rightly dismissed the petition and the same is well founded.

4 Heard the learned counsel appearing on either side and perused the materials available on record.

5 No doubt, the petitioner can invoke Section 391 of Cr.P.C. at appellate stage, if the document is necessary to decide the case. In the present case on hand, the trial Court while dismissing the petition, has observed that the petitioner has not taken any steps to avail the provisions of Section 311 Cr.P.C and no sufficient reasons has been assigned for the same. This Court is of the view that without the document, the Court can decide the appeal and further the document filed in other proceedings is not necessary for the case on hand. There is no merit and substance in the present revision and the same is dismissed. Consequently connected miscellaneous petition is closed.

सत्यमेव जयते
Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The XVII Additional City Civil Court,
Chennai.

2. The XVII Metropolitan Magistrate,
Saidapet, Chennai.

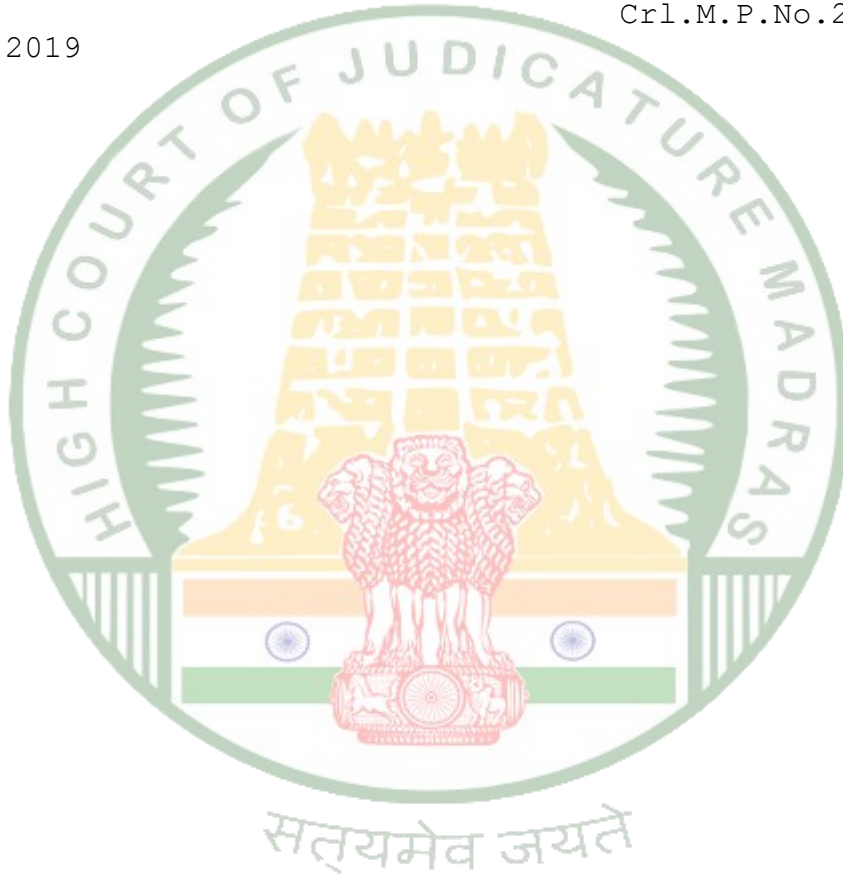
3. The Public Prosecutor,
High Court of Madras.

4. The Inspector of Police,
W-25, All Women Police Station,
Chennai.

+2 cc's to M/s.Chennai Law Associates, Advocate Sr.No.12104

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CSL/07.03.2019



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