

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2019

CORAM

THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

Crl.Rc.No.319 of 2019
and
Crl.M.P.No.4022 of 2019

Vasanth Kumar Parekh

... Petitioner

Vs

M. Khaja Sheriff

... Respondent

PRAYER: Criminal Revision Petition filed under Section 397 and 401 of Cr.P.C, to set aside the order made in Crl.M.P.No.73 of 2017 in Calender Case No.989 of 2011 on the file of the learned V Metropolitan Magistrate, Egmore, Chennai.

For Petitioner : Mr.V.Krishnamoorthy

For Respondent : Mr.R.Ravichandran
Govt. Advocate (Crl. side)

ORDER

This revision case has been filed by the petitioner to set aside the order in Crl.M.P.No.73 of 2017 in C.C. No.989 of 2011 on the file of the learned V Metropolitan Magistrate, Egmore, Chennai.

2. The case of the respondent/complainant is that since 1992, he was working as an Accountant under the accused. The accused has also utilized the complainant's service for his sister concerns and he was paid a consolidated monthly salary of Rs.5000/- , out of which, he deducted contributions towards ESI and EFP. The respondent came to know that the accused has not remitted the EST and EFP contributions, which he deducted from his Salary. When he demanded the same to be remitted before the concerned authorities, the accused immediately terminated the respondent from service. The respondent/complainant has filed a private complaint before the V Metropolitan Magistrate, Egmore, Chennai under Section 200 Cr.P.C. for offence under Section 405, 406 and 409 of IPC against the revision petitioner/accused which was taken on file in C.C.No.989 of 2011. During the pendency of the complaint, the revision petitioner/accused filed a petition under 245 of Cr.P.C., to discharge the petitioner from this case. After hearing both sides, the learned Magistrate dismissed the petition. As against the order, the petitioner is before this Court with this present revision.

3. The learned counsel for the petitioner would submit that the petitioner is no way connected with this case and the respondent/complainant is no longer an employee of the company.

During the pendency of the case, before the trial Court, the respondent has examined himself as P.W.1 and marked Ex.P.1 to Ex.P.6. The documents marked on the side of the respondent is only a notice and representations. There is no prima facie case is made out against the petitioner. The learned Magistrate failed to consider these aspects and dismissed the discharge petition filed by the petitioner. Hence, the learned counsel prays to set aside the order in CrI.M.P.No.73 of 2017 passed by the learned Metropolitan Magistrate, Chennai.

4. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

5. The respondent has filed the complaint under Section 200 Cr.P.C. for offence under Section 405, 406 and 409 IPC against the petitioner/accused and the same was taken on file in C.C.No.989 of 2011 by the learned Magistrate. The respondent sent a notice to the accused and the same was received by him. Even after receiving the said notice, the accused neither replied nor complied with the demand made by the complainant. Further, the petitioner obtained an information from the statutory authority by invoking RTI Act that no contribution has been paid in his name towards ESI and EFP. Under these circumstances, this Court finds that the prima facie case is made

out against the petitioner/accused and there is no merit in the revision filed by the petitioner. Probative value of the materials need not be gone into at this stage.

6. In the result, this Criminal revision case is dismissed at the admission stage itself. Consequently, connected miscellaneous petition is closed.

19.03.2019

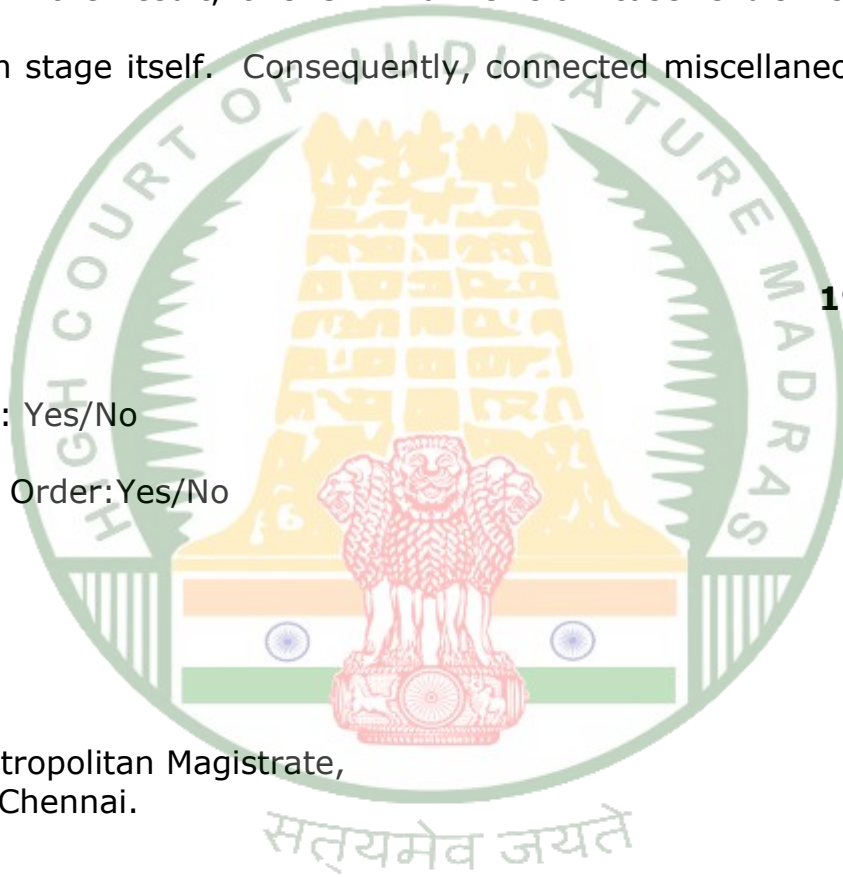
Index : Yes/No

Speaking Order: Yes/No

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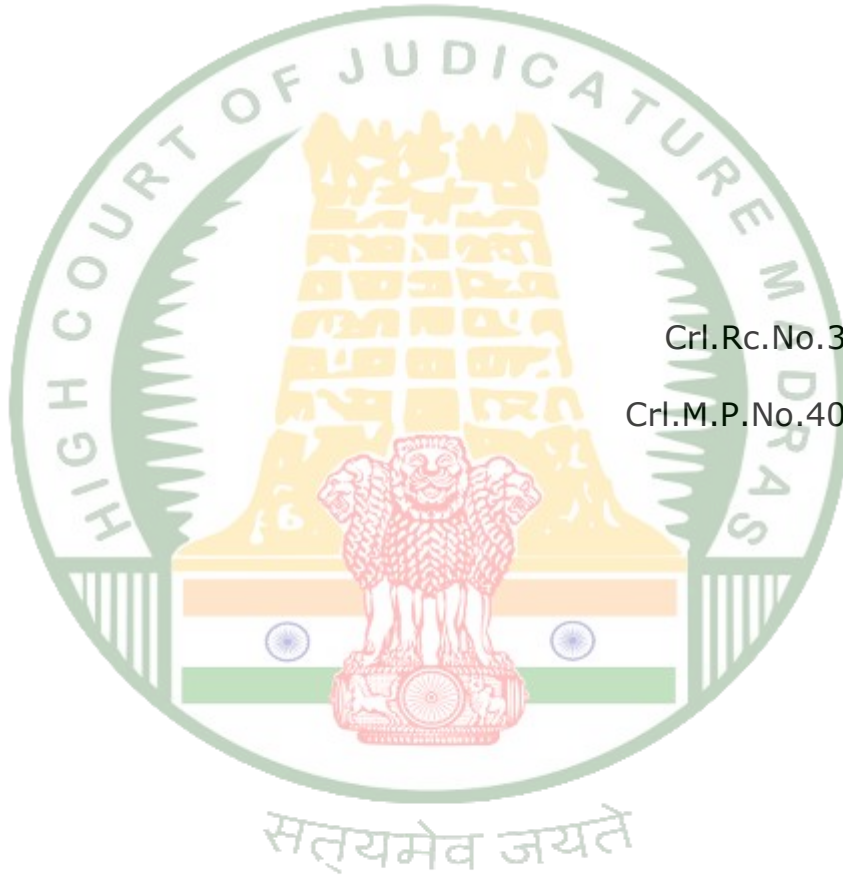
The V Metropolitan Magistrate,
Egmore, Chennai.



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P.VELMURUGAN,J.

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