

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No.22718 of 2019
and CrI.M.P.No.11813 of 2019

1. Integrated Resources,
No.22, 10th Main Road,
Allanahalli, Mysore.

2. Aaliya Khan

... Petitioners

Vs.

SPR Cashews
Represented by its Proprietor,
S.Palanimalai, S/o.Sekar,
No.3/78, Mettukuppam,
Sathipattu Post,
Panruti Taluk, Cuddalore District.

... Respondent

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the order dated 03.04.2019 passed in C.C.No.87 of 2017 on the file of the Judicial Magistrate No.1, Panruti and directing the Court to mark documents produced by the petitioners.

For Petitioners : Mr.R.Gururaj

ORDER

This petition has been filed challenging the order passed by the Court below rejecting the memo filed by the petitioners seeking to mark certain documents without petitioners getting into the witness box.

2. The petitioners are facing trial before the Court below for an offence under Section 138 of the Negotiable Instruments Act. The examination of witnesses on the side of the complainant was completed and the case was at the stage of examining the defence witnesses. At that stage a memo came to be filed before the Court below to permit the petitioners to mark certain documents without petitioners getting into the witness box.

3. The Court below rejected the said memo on the ground that such a prayer is not maintainable.

4. The learned counsel for the petitioners submitted that this Court has already dispensed with the presence of the petitioners and directed the petitioners to be present before the Court below at the time of questioning under Section 313 Cr.P.C and at the time of passing the final judgement. The learned counsel for the petitioners further submitted that, if this Court is not inclined to permit the documents to be marked with a memo, an opportunity may be given to the petitioners to get into the witness box for the purpose of marking the documents. The learned counsel further submitted that the respondent has also taken steps for examining certain witnesses by reopening the case.

5. Taking into consideration the facts and circumstances of the case and the submissions made on behalf of the petitioners, this Court is not inclined to interfere with the order passed by the Court below and the same is perfectly in accordance with law. A party can never mark documents without getting into the witness box since if the other side wants to cross-examine the witness on the documents, he will be deprived of such an opportunity. The procedure that was sought to be followed by the petitioners is alien to the provisions contained in the Code of Criminal Procedure and Evidence Act.

6. In the result, this Criminal original petition is dismissed and the petitioners are given liberty to get into the witness box and seek for marking of the documents. It is left open to the respondent to question regarding the relevancy, admissibility and proof of the documents, at the time when the documents are marked.

7. This Court had already fixed the time limit for the completion of the proceedings and the time limit had already expired. Therefore the Court below is directed to complete the proceedings within a period of one month from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

ssr

To

1. The Judicial Magistrate No.1, Panruti.

+1cc to Mr.R.Gururaj, Advocate sr.72863

Crl.O.P.No.22718 of 2019
and Crl.M.P.No.11813 of 2019

nm(co)
nr 28/08/2019



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