



CrL.RC.No 353 OF 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2022

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THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRL.RC No. 353 OF 2020

AND

CRL.MP. No. 2652 OF 2020

M.P.Rajkumar

... Petitioner

vs.

R.Alagusolaimalai

... Respondent

Prayer: Criminal Revision Petition filed under Sections 397 r/w. 407 CrPC against the order dated 06.12.2019 made in CrI.M.P.No.6436 of 2019 in C.C.No.3990/2017 passed by the Metropolitan Magistrate, FTC -IV at Magisterial Level, George Town, Chennai.

For Petitioner : M/s.B.B.Sendhil Kumar

For Respondent : M/s.S.Balasubramanian

ORDER

The petitioner is the accused and the respondent is complainant. The respondent filed a petition under Section 138 of N.I Act before the Metropolitan Magistrate, FTC -IV at Magisterial Level, George Town, Chennai. The said complaint was taken on file in C.C.No.



CrI.RC.No 353 OF 2020

3990 of 2017. After completing cross examination of the respondent complainant, the matter was posted for defence side witness. At that time, the petitioner filed a petition under Section 254 of Crpc to examine one Senthilnathan as defence witness. The said petition was dismissed by the trial Court on the ground that the petitioner has not stated the valid reason as to why he wanted to examine the said Senthilnathan and not mentioned the documents on what way nexus with the above case. Challenging the said dismissal order, the present revision petition is filed.

2. The learned counsel for the petitioner would submit that the petitioner and the respondent are running a partnership firm. The petitioner had issued unfilled cheque leaf to the respondent for company transactions. In order to substantiate the partnership firm and transaction, he filed a petition under Section 254 CrPC to examine one Senthilnathan as defence witness and to produce certain documents. Unfortunately, the trial Court failed to give opportunity to prove his defence and dismissed the said petition, therefore the said order of the trial Court is liable to be dismissed.



CrI.RC.No 353 OF 2020

3. The learned counsel for the respondent would submit that the petitioner is protracting the case and not cooperating for early disposal, despite the directions issued by this Court to complete the entire proceedings in C.C.No. 3990 of 2017 within a period of three months. The learned counsel for the respondent would further submit that the petitioner has absconded and NBW was also issued. Subsequently, the petitioner has filed a criminal original petition before this Court, based on the order of this Court, PW1 was recalled and cross examined, but he has not produced any documents or witnesses, but one way or other, he is protracting the proceedings. Hence the trial Court rightly dismissed his petition, therefore nothing warrants to interfere with the said order of the trial Court.

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

5. Admittedly, the respondent is the complainant and the petitioner is the accused. The respondent has filed a petition against the petitioner for the offence under Section 138 of N.I Act and the same was taken on file by the Metropolitan Magistrate, FTC-IV, George Town,



Crl.RC.No 353 OF 2020

Chennai in C.C.No.3990 of 2017 and the evidence on the side of the complainant was completed and the proceedings under Section 313 CrPc was also completed on 14.11.2018 itself and when the matter was listed on 06.12.2018 for defence side witness, the petitioner has filed a petition under Section 311 Crpc to recall PW1 for cross examination. The trial Court dismissed the said petition on 08.02.2019. Thereafter, the petitioner approached this Court in Crl.OP.No. 10826 of 2019 and the same allowed by this Court with the direction to recall PW1 and to give opportunity to the petitioner to cross examine the PW1. Based on the said order of this Court, PW1 was recalled and cross examined by the petitioner on 02.07.2019, thereafter more than eight (8) hearings the matter was adjourned for defence witness. In the meantime on 22.08.2019 due to non appearance of the petitioner/accused, NBW came to be issued against him and the same was recalled on 05.09.2019.

6. The petitioner did not respond for the statutory notice. Even during cross examination, he did not establish the partnership firm and the documents which are necessary to decide the case from 14.11.2018 to 22.08.2019, but the petitioner has filed any petition under Section 254 Crpc to examine one Senthilthan as defence witness, but he has not stated



Crl.RC.No 353 OF 2020

any valid reason as to why he wants to examine the said Senthilnathan and as to the relationship of said Senthilnathan to the transaction pertaining to the above proceedings. Therefore it is clearly shows that petitioner only in order to protract the proceedings, filed the petition before trial Court under Section 254 Crpc and the trial Court has rightly dismissed the petition. This Court finds no merits in the present criminal revision petition and the same is liable to be dismissed.

7. In the result, the present criminal revision petition is dismissed. Consequently, connected miscellaneous petition is also closed.

19.12.2022

Index : Yes / No
Internet : Yes / No
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Crl.RC.No 353 OF 2020

P.VELMURUGAN, J.

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Crl.RC.No.353 of 2020

19.12.2022