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Criminal Original Petition No.19213 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.19213 of 2023

and

Crl.M.P.No.12922 of 2023

Sri Saraswathi Roadways,
Rep by its Proprietor Mr.Raviendra Singh,
Venkateshwara Rice Mill Compound,
Old Madras Road, Virgo Nagar Post,
Opp. New Commercial Tax Check Post,
Bangalore-560049.
Karnataka.

.. Petitioner

Vs.

M/s.Toll (India) Logistics Private Limited,
Represented by its Authorized Singnatory,
Mr.P.G.Gunaseelan,
9-A, Puzhal Ambattur Road,
1st Street, Puzhal,
Chennai-600 066.

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to set aside the order dated 20.06.2023 passed by the Metropolitan Magistrate Fast Track Court-II, Egmore, Allikulam, Chennai in Crl.M.P.No.5414 of 2021 in CC No.6622 of 2017, Chennai.

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



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ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below dismissing the petition filed u/s.91 Cr.P.C. in CrI.M.P.No.5414 of 2021, dated 20.06.2023, wherein the petitioner had sought for a direction to the respondent/complainant to produce two documents.

2. The petitioner is facing trial before the Court below for offence u/s.138 of the Negotiable Instruments Act. After completion of examination of PW-1, the petitioner based on the answers that were elicited from PW-1 filed a petition u/s.91 Cr.P.C. for a direction to the respondent/complainant to produce the following documents:

- (i) Audited balance sheet pertaining to the accused maintained by Complainant's Company.
- (ii) Bank statement of the complainant in the ICICI Bank Ltd. Nungambakkam High Road, Uttamar Gandhi Salai, Chennai 600 003 at least from 01.01.2016 to 01.12.2017.

3. The Court below on considering the rival submissions came



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to a conclusion that the relief sought for by the petitioner cannot be granted and accordingly, dismissed the petition. Aggrieved by the same, the present Criminal Original Petition has been filed before this Court.

4. Heard Mr.M.L.Joseph, learned counsel for petitioner and carefully perused the materials available on record.

5. The respondent has filed a counter and has opposed the petition filed by the petitioner. In view of the same, no useful purpose will be served in directing the respondent to produce the documents. The specific stand that has been taken by the petitioner is that the amount has been repaid to the respondent and the same can be proved only if the financial transactions are placed before the Court. According to the petitioner, they do not have the relevant documents.

6. The first document that has been sought for from the respondent/complainant cannot be compelled to be produced by the complainant since the complainant is not willing to produce that document.

7. Insofar as the second document is concerned, it pertains to a



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bank statement from ICICI bank for the period from 01.01.2016 to 01.12.2017. The case is now at the stage of defence evidence. Hence, the petitioner can always file an application and ask the concerned Bank Manager to produce the bank statement for the period from 01.01.2016 to 01.12.2017. If that is done, the purpose will be served and the petitioner will be able to establish his defence.

8. In the light of the above discussion, this Court is not inclined to interfere with the order passed by the Court below.

This Criminal Original Petition is disposed of in the above terms. Consequently, connected miscellaneous petition is closed.

25.08.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
gm



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WEB COPY To

The Metropolitan Magistrate Fast Track Court-II,
Egmore, Allikulam,
Chennai.

N.ANAND VENKATESH, J



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