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Crl.O.P.Nos.25786, 25742, 25795
and 26001 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2023

CORAM:

THE HONOURABLE MS JUSTICE R.N.MANJULA

Crl.O.P.Nos.25786, 25742, 25795
and 26001 of 2021

&

Crl.M.P.No.14339, 14340, 14278,
14280, 14351, 14352, 14371
and 14372 of 2021

Farouk Irani

... Petitioner in all Crl.O.Ps.

Vs.

1. The Reserve Bank of India,
Rep. by Shri C.S.Ramkumar, AGM,
Department of Non-Banking Supervision,
Reserve Bank of India,
Chennai – 600 001.
2. M/s.First Leasing Company of India Limited,
Rep. by Official Liquidator,
Having its registered office at,
No.749 – Anna Salai,
Chennai – 600 002.
3. Dr.A.C.Muthaiah
Chairman of
M/s.First Leasing Company of India Limited,
Adayar Villa, Kotturpuram,
Chennai – 600 085.



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4. Maharaj Jai Singh,
Director of
M/s.First Leasing Company of India Limited,
No.12, Civil Lines,
Jaipur – 302 006.

5. A.Sathish Kumar,
Director of
M/s. First Leasing Company of India Limited,
No.1, East Avenue,
Keshvaperumalpuram,
Chennai – 600 028.

... Respondents in Crl.O.P.Nos.25786
and 25742 of 2021

1. The Reserve Bank of India,
Rep. by Shri C.S.Ramkumar, AGM,
Department of Non-Banking Supervision,
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2. M/s.First Leasing Company of India Limited,
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Having its registered office at,
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3. Dr.A.C.Muthaiah
Chairman of
M/s.First Leasing Company of India Limited,
Adayar Villa, Kotturpuram,
Chennai – 600 085.



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4. A.Sathish Kumar,

Director of

M/s. First Leasing Company of India Limited,
No.1, East Avenue,
Keshvaperumalpuram,
Chennai – 600 028.

5. M.B.Shridharan,

Director,

New No.1, Old No.27,
2nd West Street, Kamaraj Nagar,
Thiruvannamiyur,
Chennai – 600 041.

... Respondents in Crl.O.P.No.25795
of 2021

1. The Reserve Bank of India,
Rep. by Shri C.S.Ramkumar, AGM,
Department of Non-Banking Supervision,
Reserve Bank of India,
Chennai – 600 001.

2. M/s.First Leasing Company of India Limited,
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4. V.Selvaraj,
Director of
M/s. First Leasing Company of India Limited,
Plot No.5162, W-Block,
New No.4, IV Street,
Anna Nagar, Chennai – 600 040.

5. N.Ramakrishnan,
Director of
M/s. First Leasing Company of India Limited,
No.8, Raghuram Street,
Arumbakkam, Chennai – 600 041.

... Respondents in
Crl.O.P.No.26001 of 2021

Common Prayer: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records in E.O.C.C.No.40 of 2014, 39 of 2014, 41 of 2014 and 42 of 2014 pending on the file of the learned Additional Chief Metropolitan Magistrate (E.O.II) Egmore, Chennai, set aside the order dated 02.12.2021 passed by the learned Additional Chief Metropolitan Magistrate (E.O.II) Egmore, Chennai, direct the first respondent not to produce additional documents except in the manner known to law.

For Petitioner
in all Crl.O.Ps :Mr.R.Baskar

For 1st Respondent
in all Crl.O.Ps : Mr.R.Vivekananthan



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COMMON ORDER

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The Criminal Original Petitions have been filed, challenging the orders of the learned Additional Chief Metropolitan Magistrate (E.O.II) Egmore, Chennai made in E.O.C.C.No.40 of 2014, 39 of 2014, 41 of 2014 and 42 of 2014, dated 02.12.2021.

2. The petitioner is the 2nd accused in a private complaint filed by the 1st respondent, the Reserve Bank of India. On the basis of the said private complaint, cases are registered in E.O.C.C.No.40 of 2014, 39 of 2014, 41 of 2014 and 42 of 2014 for the offences under Sections 58B(1), 58B(4A), 58B(6) and 58C of the Reserve Bank of India Act, 1934. During the pendency of the same, the 1st respondent/complainant filed a Memo on 27.01.2020, seeking leave of the Court to receive certain additional documents on the side of the complainant and the same were received on the same day. Subsequently, the petitioner / 2nd accused filed a memo on 19.03.2021 by stating that the additional documents were not relevant and no purpose was going to be served by allowing the complainant to produce those documents as additional documents. The said documents ought not to



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have been produced by way of filing a Memo and the said procedure adopted by the complainant is contrary to the decision held by this Court and reported in ***1997 (1) MWN (Cr.) 178 (Kennady Vrs. State represented by Sub-Inspector of Police, Pasumpon Muthuramlinga Thevar District).***

The first respondent/complainant has filed a reply to the above memo on 14.09.2021. After hearing the submission of the 2nd accused and the first respondent/complainant, the learned Additional Chief Metropolitan Magistrate (E.O.II) Egmore, Chennai has passed the orders on 02.12.2021 in E.O.C.C.No.40 of 2014, 39 of 2014, 41 of 2014 and 42 of 2014, by rejecting the said memo, dated 19.03.2021. Challenging the same, the petitioner/2nd accused has preferred these Criminal Original Petitions.

3. Heard the learned counsel for the petitioner and the learned counsel appearing for the 1st respondent. Even though there are other respondents, the contesting parties are the petitioner and 1st respondent. Hence, notice to the other respondents is deemed unnecessary.



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4. The learned counsel for the petitioner submitted that the first respondent has adopted a different procedure to receive certain additional documents by way of filing a mere memo and those documents are not at all relevant to the case on hand. The trial Court has also chosen to accept the same through a non-speaking order. The law on this point has been settled by this Court in the Judgment reported in **1997 (1) MWN (Cr.) 178** in ***Kennady Vrs. State represented by Sub-Inspector of Police, Pasumpon Muthuramlinga Thevar District.***

5. The learned counsel for the 1st respondent submitted that the citation relied on by the petitioner is not applicable to the facts of the case. Even if the petitioner has got any grievance in the order to receive the additional documents, the petitioner ought to have challenged the same and he is not expected to file a separate Memo.

6. At the out set it is clarified that the first respondent has filed private complaints, based on which cases have been taken on file in E.O.C.C.No.40 of 2014, 39 of 2014, 41 of 2014 and 42 of 2014 for the



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offences under Sections 58B(1), 58B(4A), 58B(6) and 58C of the Reserve Bank of India Act, 1934 by adopting the private complaint procedures. During the pendency of the proceedings the first respondent / complainant has filed a Memo on 27.01.2020, seeking to receive certain documents. The learned trial Judge had chosen to receive those documents on the same day itself. Subsequent to that, the petitioner / 2nd accused had filed Memo dated 19.03.2021 by expressing his objection to the earlier memo and the order passed by the trial Court there on.

7. No doubt, the rightful course is open to the petitioner to challenge the order of receiving the documents and not the order passed in the subsequent Memo filed by the second accused on 19.03.2021. Even though the order of the learned Additional Chief Metropolitan Magistrate (E.O.II) Egmore, Chennai with regard to the receiving of additional documents, is a non speaking order, those documents have been received subject to proof and relevancy. Through the impugned order, the petitioner invites the Court to observe that the petitioner's objections with regard to the documents can be made when those documents are marked during the course of trial or



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during the cross examination of the concerned witnesses, on the side of the first respondent.

8. The option exercised by the petitioner by filing a separate memo to challenge the order of receiving the additional documents is fundamentally wrong. In fact, by filing such a memo and inviting the Court to pass such an order, he had made the trial Court to sit on appeal on its own order and that is incorrect. Instead of challenging the alleged non-speaking order before the appropriate forum, the petitioner had chosen a short circuit by way of filing a Memo.

9. It is seen that the Judgment relied on by the petitioner reported in **1997 (1) MWN (Cr.) 178** is applicable to the facts of its own case. In that case, the trial Court has dealt with the case which had arisen out of a Police report and not by way of a private complaint. So far as the present case is concerned, the private complaint procedure is complied and hence there is no question of any further investigation or statements under Section 161 of Cr.P.C. Whatever document produced by the complainant at the time of



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filing the complaint or subsequent to it, would form part of the complaint filed under Section 200 of Cr.P.C., only. As rightly observed by the learned Additional Chief Metropolitan Magistrate (E.O.II), Egmore, Chennai, the petitioner who is the 2nd accused herein have got a liberty to raise his objection with regard to the admissibility or relevancy of the documents during the course of trial.

10. In view of the above stated reasons, these Criminal Original Petitions stand dismissed. However, taking into consideration of the long pendency of the case, the trial Court viz., the Additional Chief Metropolitan Magistrate (E.O.II), Egmore, Chennai is directed to complete the trial and dispose of the case in E.O.C.C.No.40 of 2014, 39 of 2014, 41 of 2014 and 42 of 2014 as expeditiously as possible. Consequently, connected Miscellaneous Petitions are closed.

20.02.2023

vum
Index:yes/No
Speaking order / Non speaking order



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To

1. The Additional Chief Metropolitan Magistrate (E.O.II),
Egmore, Chennai.
2. The Reserve Bank of India,
Rep. by Shri C.S.Ramkumar, AGM,
Department of Non-Banking Supervision,
Reserve Bank of India,
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