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Crl.O.P.No.23276 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.11.2023

CORAM :

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.23276 of 2023

R.Senthil Kumar

... Petitioner

-VS-

T.S.Vasan

...Respondent

PRAYER : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the proceedings in C.C. No.819 of 2023 on the file of the learned III Metropolitan Magistrate, George Town, Chennai and set aside the order dated 28.12.2022 passed in Crl.M.P. No.11854 of 2022 so far as dismissal portion alone.

For Petitioner : Mr.R.Amizhdu

ORDER

The petitioner herein is the accused in a private complaint initiated under Section 138 of Negotiable Instruments Act, 1881 pending on the file of the III Metropolitan Magistrate, Egmore in C.C. No.819 of 2023. After examination of



complainant's side witness, the petitioner was permitted to marshal his witnesses. Accordingly, he has filed a memo, indicating list of witnesses for accused. The trial Court while allowing the memo in respect of two witnesses, declined in respect of the third witness Tanveer Ahmed, who claims to be the partner in "Celebrity Exports" in which, the complainant is the other Partner.

2. The learned counsel appearing for the petitioner submitted that in the cross examination of the complainant, it has been elucidated that the cheque amount of Rs.2,00,000/- was drawn from the partnership firm account and given to the accused with a knowledge of the co-partner viz., Tanveer Ahmed and therefore, it is necessary to examine Tanveer Ahmed to disprove the said statement. The trial Court had rejected the request on the ground that as far as the cheque is concerned, it is issued in the personal name of complainant and the examination of the complainant's partner no way can elucidate facts relevant for the case.

3. After hearing, the learned counsels at length and reading the deposition of P.W.1 both in chief and cross, this Court finds that summoning Tanveer Ahmed is not required in the facts of the case and it will not be relevant to the facts or facts in issue. Since already the accused has summoned the statement of bank account and form part of exhibits which can prove or



disprove whether the partnership firm had sufficient money on the relevant date to advance loan to the accused. Hence, this petition is dismissed.

06.11.2023

Internet : Yes/No
Index : Yes/No
rkp

To

1. The III Metropolitan Magistrate,
George Town, Chennai.
4. The Public Prosecutor,
Madras High Court, Madras.



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Dr.G.JAYACHANDRAN, J.

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