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Crl.R.C.No.1868 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2023

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1868 of 2023

and

Crl.M.P.No.17483 of 2023

R.Senthilvel

... Petitioner/accused

Vs.

Anu Akshaya Auto Finance,
Rep by iyd Managing Partner,
T.Chidambarasamy,
S/o.Thirumalasamy Gounder,
No.35-A, Sakthi Nagar,
Tharapuram Road,
Kangayam, Kangayam Taluk,
Tiruppur District.

... Respondent

PRAYER: Criminal Revision Case has been filed under Sections 397 and 401 of Cr.P.C, praying to set aside the order dated 17.07.2023 made in Crl.M.P.No.7511 of 2022 in S.T.C.No.174 of 2020, on the file of the Judicial Magistrate, Kangayam and allow the Criminal Revision.

For Petitioner

: Mr.S.Angamuthu



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ORDER

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This petition has been filed challenging the order passed by the learned Judicial Magistrate, Kangayam in Crl.M.P.No.7511 of 2022 in S.T.C.No.174 of 2020 dated 17.07.2023.

2.The petitioner/accused is being prosecuted on the complaint given by the de-facto complainant under Section 138 of the Negotiable Instruments Act.

3.The contention of the petitioner is that the petitioner filed a petition under Section 254(2) of Cr.P.C. seeking to issue summons to one Selvaraj, Auditor of the respondent company and for examination of the Auditor and also summoning respondent company Income Tax returns for the years 2017-2022 and also the respondent company's daily register, balance sheet and other documents. The trial Court found that the petitioner has not made out a case for the same, further, the petitioner has not denied that on



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06.09.2018 by way of RTGS, a sum of Rs.9 lakhs have been transferred to his account, in such circumstances, calling for those documents is unnecessary and dismissed the petition.

4.Learned counsel further submitted that respondent in his evidence admitted that he can produce the document. In such circumstances the Trial Court ought to have allowed the petition and not dismissed the petition. The petitioner's right to probabalise his defence is now put on hold.

5.Considering the submissions made and on perusal of the material it is seen that the question put by the petitioner is with regard to examination of Auditor of the respondent company and production of Income Tax returns and its payment register and other documents. These documents would atleast show that the respondent's capacity to pay the loan amount of Rs.9 lakhs, which is not disputed. The respondent on requisition, paid Rs.9 lakhs by way of RTGS. In such circumstances, calling for these documents would



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no way further the case but delay the progress of the case. Hence, this Court is not inclined to entertain this petition and accordingly, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

08.11.2023

Index: Yes/No

Internet : Yes/No

Speaking order/Non speaking order

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To

1.The Judicial Magistrate,
Kangayam.

2.The Public Prosecutor,
High Court, Madras.

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