



Crl.R.C.No.1943 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2023

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1943 of 2023 and
Crl.M.P.No.18046 & 18088 of 2023

Ravichandran

... Petitioner

Vs.

Krishnasamy

... Respondent

Prayer: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to allow the Criminal Revision and set aside the order dated 07.10.2023 passed in Crl.M.P.No.3716 of 2023 in C.C.No.340 of 2018 on the file of the learned Judicial Magistrate No.2, Pollachi, Coimbatore District.

For Petitioner : Mr.M.Vijaya Ragavan

For Respondent : Mr.P.J.Anitha

ORDER

This Criminal Revision Case has been filed to set aside the order, dated 07.08.2023 in Crl.M.P.No.3716 of 2023 in C.C.No.340 of 2018 passed by the learned Judicial Magistrate No.II, Pollachi (trial Court).



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2.The petitioner filed a petition under Section 243 Cr.P.C., in Crl.M.P.No.3716 of 2023 in C.C.No.340 of 2018 before the trial Court to examine Eswari, Krishnaveni, Chokalingam and Manger of the Corporation Bank, Angalakurichi, Anamalai Taluk as witness. The trial Court, by order, dated 07.08.2023 dismissed the petition, against which, the present Criminal Revision Case.

3.The learned counsel for the petitioner submitted that the petitioner's wife and the respondent's wife were working in PACL Insurance Company in the year 2012. The respondent's wife was the Development Officer and the petitioner's wife was a Collection Agent. During their employment, the petitioner's wife collected and handed over several cheques of the policy holders. The disputed cheque was given for security purpose which has been misused, filled up by the respondent, as a result, the case has been registered. The specific case of the petitioner is that the respondent has got no source of income to give huge amount of Rs.6 lakhs as loan. The examination of Manager, Corporation Bank, Angalakurichi, Anamalai Taluk gains significance since the respondent admitted that prior to the loan, he



withdrew Rs.6 lakhs from his account from the Corporation Bank during January 2018. The other witnesses are wife of the respondent and two policy holders. The trial Court dismissed the petition stating that the petition has been filed only for the purpose of dragging the proceedings and the witnesses are no way connected to the case. Hence, prays for setting aside the impugned order.

4.The learned counsel for the respondent submitted that the petitioner by filing one petition or other successfully dragging the progress of trial from the year 2018. The trial Court rightly found that the petitioner not sent any reply denying the liability, but now making such defence and filing through the petition under Section 243 Cr.P.C., is not acceptable. She further submitted that the case of the petitioner is, the wives of petitioner and the respondent were working together. In such circumstances, only calling respondent's wife is not proper. Had the petitioner first got into the box examined himself under Section 315 Cr.P.C., and disclosed all the true facts, thereafter, examined his wife to substantiate his defence and making out a case and thereafter filing a petition to call for the respondent's wife and



others can be considered. In this case, PACL is an Insurance Company.

The case of the petitioner himself is that in the year 2012, his wife and the respondent's wife were working together as Collection Agent and Development Officer. In the Insurance Company, the premium amount collected, will be for few hundreds, nothing more. Issuance of cheque for Rs.6 lakhs would have no justification to PACL. The petitioner is not a subscriber to the Insurance Company and for what reason, the petitioner had to give cheque for Rs.6 lakhs as security, no explanation given. The petitioner to drag on the proceedings and to delay the trial, filed the petition under Section 243 Cr.P.C., which the trial Court rightly dismissed and the same needs no interference.

5.Considering the submissions and on perusal of the materials, it is seen that the petitioner has not been given any reason and justification to call upon the respondent's wife and two other policy holders namely Krishnaveni, Eswari and Chokalingam for examination as defence witness. Hence, the impugned order, dated 07.08.2023 is confirmed as regards the said three persons are concerned.



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6.As regards the Manager, Corporation Bank, Angalakurichi, Anamalai Taluk is concerned, since the specific question has been put to the respondent about the source of loan amount, the official from the Corporation Bank can be examined.

7.Accordingly, the impugned order is set aside in so far examination of official of Corporation Bank, Angalakurichi, Anamalai Taluk is concerned. The examination to be done within a period of three weeks from the date of receipt of a copy of this order. The petitioner, if he intends to examine himself under Section 315 Cr.P.C., as a witness, he can do so by filing appropriate petition. In any event, all the exercise to be completed and trial to be concluded within a period of two months from the date of receipt of a copy of this order.

8.In the result, this Criminal Revision Case stands allowed in part. Consequently, the connected Criminal Miscellaneous Petitions are closed.

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M.NIRMAL KUMAR, J.

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Internet: Yes/No

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

To

The Judicial Magistrate Court No.II,
Pollachi.

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