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Crl.O.P.No.25925 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.25925 of 2023

and

Crl.M.P.No.17976 of 2023

S.Pandurangan

... Petitioner

Vs.

B.C.Kishore Kumar

...Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to set aside the order passed in Crl.M.P.No.15432 of 2023 dated 25.09.2023 in C.C.No.4298 of 2012 on the file of the learned Metropolitan Magistrate, Fast Track Court V, Saidapet, Chennai.

For Petitioner : M/s.K.M.Balaji

ORDER

In a private complaint initiated under Section 138 of NI Act taken on file by the learned Metropolitan Magistrate Fast Track Court-V, Saidapet, Chennai in C.C.No.4298 of 2012, the accused has filed an application under Section 91 of Cr.P.C after examination of witness on the side of the



complainant. In the said application, he had sought for following five documents, which according to the petitioner /accused in possession of the complainant.

i) Documents related to jointly purchased the vacant land measuring with an extent of 2.15 acres koovathur village.

ii) Approval given by the local authority and number of plots.

Iii) The deed of document related to jointly purchased the vacant 1 and measuring with an extent of 2.15 acres Koovathur Villaage.

iv) Power of attorney executed by the complainant.

v) Statement of accounts related to this transaction between the complainant and the accused.

2. The above application was opposed by the complainant on the ground that there is no reason stated for the purpose for which the document is sought to be produced. The complainant has also stated that those documents are in possession of the accused himself and therefore petition to produce the document by the complainant is unsustainable.



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3. According to the counter filed by the complainant as a power of the attorney of the complainant, petitioner /accused has collected title deed of the property, applied and obtained layout plan approval and sold his property as power agent. As far as the statement of accounts, as a power agent, he is the person who is liable to render the account. Petition to produce documents after 10 years of its institution is to drag the trial further.

4. The trial Court after considering the rival submissions has dismissed the petition on the ground that, petition mentioned documents are in the hands of the accused. The accused shall produce those documents as defence documents.

5. The learned counsel for the petitioner submits that, some of the documents sought are not in possession of the petitioner, but it is only in possession of the complainant, which was admitted in the cross examination.

6. The five documents sought to be produced relates to registered



power of attorney, sale deed of the property, approval granted by the local authority and connected documents regarding joint purchase of vacant land.

Three of the documents namely approval given by the local authority, purchase deed and power of attorney executed in favour of the petitioner/accused are public document for which certified copy can be obtained and produced by the accused himself. Regarding statement of account in connection with the transaction, the complainant has denied possession of statement of account and the petitioner herein being the power agent of the complainant, it is his duty to produce account to show that he had discharged his responsibility as the power agent of the complainant.

7. Therefore this Court finds no error in the observation made by the trial Court saying that the documents sought are in the hands of the accused and he can produce the documents as defence documents. Having given the liberty to produce the document while deposing as a defence witnesses there can be no prejudice to the petitioner herein in dismissing the application filed under Section 91 of Cr.P.C.

8. Accordingly, this Criminal Original Petition is dismissed.



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Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No
Neutral Citation : Yes/No
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To
learned Metropolitan Magistrate,
Fast Track Court V, Saidapet, Chennai.

Dr.G.JAYACHANDRAN,J.



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