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Crl.R.C.No.2027 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2023

CORAM:

**THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR**

Crl.R.C.No.2027 of 2023

and

Crl.M.P.No.18687 of 2023

Dr.A.Aldrin

... Petitioner/Accused

Vs.

M.Govindarajulu

... Respondent

PRAYER: Criminal Revision Case has been filed under Sections 397 and 401 of Cr.P.C, praying to set aside the order dated 17.08.2023 in Crl.M.P.No.25637 of 2023 in C.C.No.7449 of 2019 passed by the Metropolitan Magistrate, Fast Track Court-I, Egmore at Allikulam, Chennai and allow the same.

For Petitioner

: Mr.A.D.Janarthanan

### **ORDER**

This petition has been filed challenging the order passed by the learned Metropolitan Magistrate, Fast Track Court-I, Egmore at Allikulam,



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Chennai in Crl.M.P.No.25637 of 2023 dated 17.08.2023 in C.C.No.7449 of 2019.

2.The petitioner/accused in a case filed under Section 138 of the Negotiable Instruments Act by the respondent, filed a petition under Section 254(2) of Cr.P.C. in Crl.M.P.No.25637 of 2023 to examine three persons as defence witnesses. The Trial Court, by order dated 17.08.2023 dismissed the same, against which the present revision.

3.The contention of the petitioner is that the petitioner is a practicing Doctor having a clinic, he did not know the complainant and no contact with him at any point of time and false complaint has been filed against him. According to the petitioner, the cheque was given to one Vimala, who was employed as Bench Clerk in City Civil Court, Chennai. The said Vimala is none other than the complainant's wife's sister. The petitioner received a sum of Rs.2,00,000/- from the said Vimala for interest and he had



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been regularly paying the interest through one Janakiraman, who introduced the said Vimala to the petitioner. These entire facts are known to Janakiraman and hence he has to be examined. Likewise, he needs to examine Vimala, who gave the loan to the petitioner through Janakiraman. The other witness he sought to examine is the Branch Manager, UCO Bank Ltd., Kodungaiyur Branch, Chennai to prove that cheque was issued in the year 2014 to the said Vimala and the petitioner had given three unfilled cheques and this cheque has been used in this case. Since the cheques are of the year 2014 and the case is of the year 2019, the cheques became stale. Though the petitioner made out a case, the Lower Court dismissed the petition insofar as examination of Vimala and Branch Manager and allowed the petition insofar as examination of Janakiraman alone. Hence, the present petition.

4. On perusal of the Lower Court order, which is a detailed one, it is seen that the case is now posted for arguments on the side of the petitioner/accused. The evidence was closed on 19.06.2023 and thereafter



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written submissions filed by the respondent on 26.06.2023 and he had also completed his oral arguments. On 13.06.2023, the above petition came to be filed before the Lower Court and thereafter the Lower Court referring to the arguments found that examination of Janakiraman is permitted, who is an accused in C.C.No.7448 of 2019. This case is also pending before the same Court and prosecuting by the respondent. As regards Vimala, finding that there is no justification and reason, dismissed the same. Likewise for Bank Manager, dismissed the petition, since the cheque is dated 20.05.2019, which was presented to the Bank and the same was returned on 21.05.2019 and thereafter legal notice issued on 27.05.2019. Though reply was received on 11.06.2019, as it was not acceptable, the respondent/complainant proceeded with the complaint. It is seen that the cheque has been dishonoured for the reason that account blocked and not for the reason that the cheque was stale. Since the dishonour of the cheque was not for any cheque being stale, the examination of Bank Manager of UCO Bank is not necessary to decide the



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case. If at all the petitioner needs to probabalise his defence he can do it through Janakiraman and also if he feel so, he has to get into the box by filing a petition under Section 315 Cr.P.C. to give his explanation, if he so desires.

5.Finding that the lower Court order does not require any interference, this Court is not inclined to entertain this revision. Therefore, the Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

30.11.2023

Index : Yes/No

Internet : Yes/No

Speaking order / Non-speaking order

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**M.NIRMAL KUMAR, J.**

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To

1.The Metropolitan Magistrate,  
Fast Track Court-I,  
Egmore at Allikulam,  
Chennai.

2.The Public Prosecutor,  
High Court, Madras.

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**and**

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