



CrI.R.C.No.2216 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.R.C.No.2216 of 2023

and

CrI.M.P.No.19917 of 2023

M.Selvaram

... Petitioner

Vs.

V.Radhakrishnan

... Respondent

Prayer: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to set aside the order made in C.M.P.No.4856 of 2023 in C.C.No.371 of 2018 dated 07.10.2023 on the file of Judicial Magistrate No.II, Pollachi.

For Petitioner : Mr.C.Veera Raghavan

ORDER

The petitioner/accused in a complaint under Section 138 of Negotiable Instruments Act filed by the respondent facing trial in C.C.No.371 of 2018 on the file of the learned Judicial Magistrate No.II,



Pollachi filed a petition under Section 145 of the Negotiable Instruments Act in C.M.P.No.4856 of 2023 to examine the complainant's Bank Manager and the same was dismissed. Against which, the present revision petition is filed.

2.The contention of the learned counsel for the petitioner is that the reason for filing the petition by the petitioner is that the petitioner paid a sum of Rs.1,00,000/- to the complainant by transferring from his wife's account in Axis Bank, Pollachi to the account of the complainant at State Bank of India, Achipatti, which is denied, for which it is necessary to examine the Bank Manager of the complainant. He would further submit that by dismissing the petition, the petitioner has been denied of his right of probalising his defence. The objection of the respondent before the Lower Court is that the fact of transfer of amount through Axis Bank, Pollachi and the alleged fact of repayment of Rs.1 lakh has been categorically denied in the evidence of the complainant. If at all, the petitioner wants to prove the fact of payment of Rs.1 lakh through his bank, nothing stops the petitioner to produce his bank statement as a document



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before the Lower Court and it is not necessary to examine the Bank Manager of State Bank of India.

3.Considering the submissions made and on perusal of the materials, it is seen that the petitioner filed the above petition to examine the complainant's Bank Manager of State Bank of India. The specific case of the petitioner is through the petitioner's bank account, namely, Axis Bank, Pollachi, a sum of Rs.1 lakh has been transferred to the complainant's account. For this purpose, the bank statement of the petitioner/accused would be sufficient to prove the same and it is not necessary to summon the Bank Manager of State Bank of India where the complainant has the account. Hence, the Trial Court had rightly dismissed the petition.

4.Further, it is seen that the case is of the year 2018 and it is almost five years, the case is still at the trial stage. Therefore, the Trial Court is directed to complete the trial without further delay by giving sufficient opportunity to the petitioner to put forth his defence in the manner known to law.



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M.NIRMAL KUMAR, J.

rsi

5.With the above direction, the criminal revision petition stands dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

22.12.2023

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
rsi

To

The Judicial Magistrate No.II,
Pollachi.

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and

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