



Crl.R.C.(MD) No.63 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.63 of 2023

and

Crl.M.P.(MD)No.955 of 2023

K.Suresh

... Petitioner/Petitioner/
Accused

Vs.

V.Manoharan

... Respondent/Respondent/
Complainant

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records pertaining to the Cr.M.P.No.42 of 2023 in S.T.C.No.17 of 2021 dated 07.01.2023 on the file of the Fast Track Court (Magistrate Level), Kovilpatti, Tuticorin District and set aside the same.

For Petitioner : Mr.J.Parekhkumar,

For Respondent : Mr.S.Ramasamy



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ORDER

This Criminal Revision is directed against the order passed in Cr.M.P.No.42 of 2023 in S.T.C.No.17 of 2021 dated 07.01.2023 on the file of the Fast Track Court (Magisterial Level), Kovilpatti, dismissing the petition filed under Section 315 Cr.P.C.

2. The respondent/complainant has filed a private complaint under Section 200 Cr.P.C. against the petitioner/accused for the alleged offence under Section 138 r/w Section 142 of Negotiable Instruments Act.

3. It is evident from the records that the complainant side evidence was already closed and when the case stood posted for defence evidence, the petitioner has filed a list of witnesses listing out two Bank Managers and one Kani, S/o.Ramasamy and out of the said three witnesses, two Bank Managers have already been examined as D.W.1 and D.W.2 respectively. When the matter was posted for arguments, the petitioner has filed the above petition under Section 315 Cr.P.C. seeking permission to examine himself and for marking two documents one, viz, (i) promissory note, dated 09.11.2018 and (ii) the legal notice



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dated 07.03.2019 in Cr.M.P.No.42 of 2023. The respondent has filed a counter raising objections. The learned Judicial Magistrate, after enquiry, has passed the impugned order dismissing the petition. Aggrieved by the said dismissal, the accused has come forward with the present revision.

4. The learned Magistrate by observing that the documents are not related to the present case and the defence evidence cannot be let in as and when at the whims of the parties, dismissed the petition.

5. It is not in dispute that the petitioner has filed a civil suit in O.S.No.28 of 2019 against one Chockalingam, that the suit was dismissed for default and that subsequently, the suit was restored.

6. The learned counsel appearing for the petitioner would submit that they have already obtained the copy of the promissory note filed in the suit in O.S.28 of 2019.

7. The learned counsel appearing for the petitioner would submit that the



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petitioner, after examining himself and marking the above documents, is ready to close the defence side evidence and on instructions, he would submit that the petitioner will not take further time to examine the other witnesses.

8. Considering the above facts and circumstances and also the defence of the petitioner, the impugned order in Cr.M.P.No.42 of 2023 in S.T.C.No.17 of 2021 dated 07.01.2023 is hereby set aside and the petitioner is permitted to examine himself as witness in the above case within a period of 15 days from the date of receipt of a copy of this order and the admissibility of documents shown in the petition has to be decided by the learned Judicial Magistrate at the time of marking. The learned Judicial Magistrate is directed to complete the trial and dispose of the case in S.T.C.No.17 of 2021 within a period of one month thereafter.

9. In the result, this Criminal Revision Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

24.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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K.MURALI SHANKAR, J.

csn

To

1.The Fast Track Court (Magistrate Level),
Kovilpatti, Tuticorin District.

ORDER MADE IN
Crl.R.C.(MD)No.63 of 2023
and
Crl.M.P.(MD)No.955 of 2023

27.03.2023