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CRL.R.C.(MD).No.284 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2023

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRL.R.C.(MD).No.284 of 2023
and
Crl.M.P.(MD)No.4148 of 2023

Basheer Mohammed

: Petitioner

Vs.

Prop.S.Albert Rayan

: Respondent

PRAYER: Criminal Revision Petition has been filed under Section 397(1)/rw 401 of Cr.P.C, to call for the records in Crl.M.P.No.3865 of 2022 in C.C.No.148 of 2017, dated 21.02.2023 pending on the file of the learned Judicial Magistrate, Fast Track, Magisterial Level, Thoothukudi and set aside the same.

For Petitioner : Mr.M.Mano Kumar

ORDER

The Criminal Revision Case is directed against the order passed in Crl.M.P.No.3865 of 2022 in C.C.No.148 of 2017, dated 21.02.2023



pending on the file of the learned Judicial Magistrate, Fast Track, Magisterial Level, Thoothukudi, dismissing the petition filed under Section 254 (2) Cr.P.C.

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

3. It is seen from the records that when the case stood posted for examination of the defence evidence, the petitioner has filed an application under Section 254(2) Cr.P.C, seeking permission to examine eight witnesses. The respondent has filed the counter statement raising serious objections. The learned Magistrate, after enquiry, has passed the impugned order, dismissing the said petition.

4. The petitioner, in the affidavit filed in support of the petition filed under Section 254(2) Cr.P.C, has stated that the complainant has failed to examine the Bank Managers of Dena Bank and TMB Bank, Thoothukudi, who are the material witnesses and the same would amount to violation of natural justice; that the person in charge of the complainant concern SAR



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Enterprises previously and the President of Tipper Lorry Association G.P.Joe Prakash, previous manager of SAR enterprises and Auditors of the SAR Enterprises and its sister concern Excelhydro, are the material witnesses to be examined and that therefore, the petitioner was constrained to file the above petition, seeking permission of the trial Court to examine the said witnesses.

5. At the out set, it is pertinent to note that the petitioner has not furnished any particulars or details of the transactions connecting the present transaction with the said witnesses.

6. It is not the case of the petitioner/accused that he had sent any reply notice in response to the statutory notice, raising his defence and the transactions involving the witnesses now sought to be examined.

7. As rightly observed by the learned Judicial Magistrate, the complainant has already examined its power of attorney as P.W.1 and the power of attorney deed has been marked as the accused side document and in that situation, the petitioner has not canvassed any reason or necessity to examine the complainant at this point of time. Though the petitioner has



listed out two Bank Managers, two Auditors, President and Vice President of Tipper Lorry Association and the Accountant of the complainant company, the petitioner has nowhere pleaded any reason or ground for summoning the above witnesses and in what way their evidence would be relevant to the issues to be decided in the complaint.

8. The learned Magistrate has assigned specific reasons for rejecting the prayer for examination of the witnesses. Admittedly, the case is pending from 2017 onwards.

9. On considering the entire facts and circumstances of the case, this Court is of the view that the above petition came to be filed only to drag on the proceedings and the impugned order of the learned Judicial Magistrate, dismissing the petition cannot be found fault with. Hence, this Court concludes that the revision is devoid of merits and the same is liable to be dismissed.

10. In the result, the Criminal Revision is dismissed. Since the case is pending from 2017 onwards, the learned Magistrate is directed to complete the trial and dispose of the case within a period of three months



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from the date of receipt of copy of this order. Consequently, connected

Miscellaneous Petition is closed.

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NCC : Yes/ No

Index : Yes/No

Internet : Yes/No
das

To

1.The Judicial Magistrate, Fast Track,
Magisterial Level, Thoothukudi.

2.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

das

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