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Crl.R.C.Nos.167 & 177 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2024

CORAM

THE HONOURABLE MR.JUSTICE **M.NIRMAL KUMAR**

Crl.R.C.Nos.167 & 177 of 2024
and
Crl.M.P.Nos.1391 & 1481 of 2024

L.Kumarappan

... Petitioner in both Crl.R.Cs

Vs.

K.Sujatha

... Respondent in Crl.RC.No.167/2024

P.Sunitha

... Respondent in Crl.RC.No.177/2024

COMMON PRAYER: Criminal Revision Petitions filed under Sections 397 and 401 of Criminal Procedure Code, to call for the records in relating to Crl.M.P.Nos.57019 & 57017 of 2023 in STC.Nos.7862 & 7863 of 2022 by the learned II Fast Track Court Metropolitan Magistrate, Allikulam, Chennai and set aside the order dated 06.01.2024.

For Petitioner in both cases : Mr.C.Uma Shankar
for M/s.M.Sathyan

For Respondent in both cases : Mr.R.Desamani



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COMMON ORDER

Earlier on 07.03.2024, this Court has passed the following order:-

“The petitioner is facing trial in S.T.C.Nos.7862 & 7863 of 2022.

2. The respondents-K.Sujatha and P.Sunitha in Crl.R.C.Nos.167 & 177 of 2024 are the daughters of Baburao. The case of the petitioner is that the petitioner had some finance transaction with one Baburao and at that time he had issued a blank cheques and signed blank papers, which has been misused by his two daughters. One of his daughter K.Sujatha, who is at Chennai and P.Sunitha, who is at Bengaluru. Both have appointed one K.Kiran Kumar as Power of Attorney and lodged the case under Section 138 of Negotiable Instruments Act.

3. The petitioner has filed a civil suit in O.S.No.8452 of 2021 on the file of the VI Assistant Judge, City Civil Court, Chennai with prayer for injunction not to present the cheque or stamp papers, which were obtained from the petitioner. Coming to know about the civil suit and on receipt of summons of the civil Court, the said Baburao



using his daughters, projected a false case against the petitioner.

4. The Power of Attorney is none other than the husband of Sujatha, who feels ignorance when he was cross examined with regard to the details of the transaction between the petitioner and Baburao. But he is very certain that only after execution of Power of Attorney, he is aware about the happenings of the execution of Power of Attorney and not before that. Ex.D1, the civil suit plaint has been marked for the purpose of probalising the defence. The petitioner needs to examine Sujatha, Sunitha as well as Baburao.

5. The learned counsel for the respondent submitted that Baburao's age is 90 years, recently he underwent surgery in the Appollo hospital. He further submitted that he has to verify with regard to the health condition of Baburao. As regards Sujatha and Sunitha is residing at Chennai and other residing at Bengaluru. Therefore, the Power of Attorney had unsaid with regard to the question raised by the petitioner. The petitioner himself can get into the box under Section 313 Cr.P.C., and give his explanation by producing documents to



probabilise his defence and not by harassing the ladies as well as senior citizen. Further submitted that the petitioner can very well avail the benefit of A.C.Narayanan case, where the Apex Court had clearly held that in the event of Power of Attorney unable to give details of the benefit to go to the accused.

6. Post the matter on 22.03.2024.”

2. In continuation and conjunction to the above order, today, the learned counsel for the petitioner produced the discharge summary of Mr.P.Babu Rao, the father of complainants. His two daughters have filed the complaint against the petitioner for offence under Section 138 of Negotiable Instruments Act, which is being prosecuted by his son-in-law as Power of Attorney,

3. The learned counsel for the petitioner submitted that Babu Rao can appear before the trial Court and give evidence, that will be sufficient. Since the defence of the petitioner is his transaction was with Babu Rao, he fairly submitted that the entire case revolves around Babu Rao and it would be sufficient to examine Babu Rao, to put forth his case and to probabilise his



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defence.

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4. It is submitted that the case is posted before the trial Court on 06.04.2024 on which day Mr.Babu Rao can appear.

5. The respondent counsel's only request is that Babu Rao may be examined by sitting since he underwent some procedure in his stomach.

6. In view of the same, this Court permits examination of Babu Rao as witness in this case. As regards the prayer of complainants were dismissed on 06.01.2024. Babu Rao to be examined as defence witness in this case and thereafter, the trial Court shall proceed with the case.

7. With the above observation, this Criminal Revision Cases are disposed of. Consequently, connected Criminal Miscellaneous petitions are closed.

22.03.2024

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



Crl.R.C.Nos.167 & 177 of 2024

M.NIRMAL KUMAR,J.

rpl

The II Fast Track Court Metropolitan Magistrate, Allikulam, Chennai

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22.03.2024