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Crl.R.C.No.704 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2024

CORAM:

THE HONOURABLE **MR. JUSTICE M.DHANDAPANI**

Crl.R.C.No.704 of 2024

Sathish Kumar

...Petitioner/Accused

Vs.

Praful Kumar Daga

...Respondent/Complainant

Petition filed under Section 397 r/w 401 of Code of Criminal Procedure to call for the records of the order dated 07.03.2024 passed by the Learned XXV Metropolitan Magistrate, Egmore, Chennai in Crl.M.P.No.9174 of 2024 in STC No.7455 of 2022 and set-aside the same.

For Petitioner : Mr.M.Rajendran for
M/s.Nathan and Associates.

ORDER

This Criminal Revision case has been filed seeking to quash the order dated 07.03.2024 passed by the Learned XXV Metropolitan Magistrate, Egmore, Chennai in Crl.M.P.No.9147 of 2024 in STC No.7455 of 2022.



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2. The petitioner is arrayed as accused in STC. No.7455 of 2022 filed

by the respondent for the offence under Section 138 of Negotiable

Instruments Act before the learned XXV Metropolitan Magistrate, Egmore.

The petitioner had owned a company in the name and style of M/s.Abhi

Aarthi Constructions Private Limited which was initiated in the year 2011

and the petitioner had sought for financial help from the respondent for

business needs. Due to various reasons, the petitioner company was shut

down in the year 2014. Upon continuous demands made by the respondent,

the petitioner was constrained to give blank cheques, promissory note, bond

paper and empty papers as security to respondent for closing the loan

availed by him. Thereafter, in the year 2016, the petitioner has settled the

entire loan with the respondent. Despite which, the respondent issued legal

notice dated 18.07.2022 to the petitioner claiming that the cheques given by

the petitioner had been dishonoured and calling upon him to repay the loan

amount. Subsequently, the respondent filed a private complaint before the

concerned Court. Pending the same, the petitioner has filed a petition in

Crl.MP.No.9147 of 2024 praying to issue summon to the defense witnesses.

The trial Court has also allowed the petition in part by summoning the



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witnesses Archana Dhaga and Manivannan and denied the rights of summoning the witness DW2 Alok Jawar, who is the owner of RS Traders and DW3 Bank Manager, Canara Bank, Shenoy Nagar Branch. Challenging the same, the present revision has been filed.

3. The learned counsel for the petitioner submitted that in order to adduce the defense evidence, it is just and necessary to examine the defense witnesses. Without considering the entire fact, the trial Court had rejected the petitioner's request, which is not sustainable. Hence, he prays that the impugned order passed by the trial court may be quashed and this Criminal Revision be allowed.

4. This Court heard the learned counsel for the petitioner and perused the materials available on record.

5. Since no adverse order is being passed against the respondent, notice to the respondent is dispensed with.



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6. On a perusal of the materials available on record, it is seen that the petitioner has not raised any question with the complainant during the cross examination and also he has not disputed in 313 proceedings. Since, he has filed a petition before the learned Magistrate only at the time of defence evidence, which clearly shows that only to protract the case, he has filed this petition. Without any averment stated in the complaint with regard to one Alok Jawar and the Bank Manager, examining them for unnecessary.

7. The trial Court has elaborately discussed the issue and rejected the petitioner's request. This Court does not find any perversity in the order passed by the Court below and there is no merit in the revision.

8. In the result, the Criminal Revision is dismissed.

18.04.2024

NHS

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No

To
The XXV Metropolitan Magistrate,
Egmore, Chennai

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M.DHANDAPANI, J.

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