IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:13.06.2024

CORAM:

THE HONOURABLE DR JUSTICE G.JAYACHANDRAN

Crl.O.P.No.10221 of 2024
and
Crl.M.P.No.7007 of 2024

1.M/s Sqube Hospitality Service,
Rep.by its Partner Mr.Prabhakar

2.Prabhakar
M/s Sqube Hospitality Service

3.Susmitha
M/s Sqube Hospitality Service .. Petitioners

/versus/

V.Sridhar .. Respondent

Prayer: Criminal Original Petition has been filed under Section 482 of Cr.P.C., praying to call for the records relating to Crl.M.P.No.640 of 2024, dated 26.03.2024 in S.T.C.No.5992 of 2022 on the file of the XXV Metropolitan Magistrate, Egmore, Chennai and set aside the same and direct the respondent to produce all the documents as prayed for in Crl.M.P.No.640 of 2024.

For Petitioners :Mr.R.Shivakumar for
Mr.K.M.Vijayan Associates

For Respondent :No appearance

ORDER

The petitioners herein are the accused in a complaint initiated under Section 138 of the Negotiable Instruments Act, 1881.

2. In the course of the cross examination of the complainant, the petitioners are elucidated certain facts regarding income tax returns of the petitioners and the complainant had admitted that the transaction which is the subject matter of the cheque, has been reflected in his income tax account. Similarly, a question relating to one Giridharan and his whatsapp communiction put to the witness, he has admitted about the whatsapp communication and also admitted that he can produce the same before the Court. Based on these documents, the petition has been filed under Section 91 of Cr.P.C.

3. When the matter has reached the stage of questioning, the accused was questioned under Section 313 of Cr.P.C. The trial Court, after considering the reason for summoning documents and recall the witness, has partly allowed. The petition has been filed to direct the complainant to produce his income tax returns. Whereas, in respect of other document, the trial Court has declined to grant the relief. The present original petition is filed before this Court challenging the order of the Court below in respect of the disallowed portion.

4. The learned counsel appearing for the petitioners argued that since the witness has admitted about the existence of income tax returns of Giridharan and whatsapp communication of Giridharan, the same have been summoned for production.

5. This Court, on perusing the petition and the impugned order vis-a-vis the relevancy of these two documents, which have now been declined for production of documents under Section 91 of Cr.P.C., holds that those two documents are not relevant for deciding the issue whether the cheque has been issued for discharge of enforceable debt or not.

Therefore, this Court upholds the order of the trial Court.

6. The learned counsel appearing for the petitioners submitted that the case now stands posted for argument. Since he has preferred Original Petition against the disallowed portion, the petitioners have not taken any steps to examine PW-1 in connection with the income tax returns, which has been allowed by the trial Court.

7. Taking into consideration the above submission, the trial Court is directed to give opportunity to the petitioner to avail the benefit of the order passed by the trial Court in Crl.M.P.No.640 of 2024 dated 26.03.2024. The said opportunity should be reasonable and the petitioner shall not delay the process taking advantage of this.

8. With the above observations, this Criminal Original Petitions is disposed of. Consequently, connected Miscellaneous Petition is closed.

13.06.2024

Index:yes/no
Neutral Citation:yes/no

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To
1.XXV Metropolitan Magistrate, Egmore, Chennai.

2.The Public Prosecutor, High Court, Madras.

DR.G.JAYACHANDRAN,J.

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