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Crl.R.C.No.1367 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2024

CORAM:

THE HON'BLE MR.JUSTICE M. NIRMAL KUMAR

Crl.R.C.No.1367 of 2024

B.Jaiganesh

... Petitioner

Vs.

A.U.Subramani

... Respondent

PRAYER: Criminal Revision filed under Sections 397 and 401 of Criminal Procedure Code, to set aside the order passed in Crl.M.P. No. 6455 of 2024 in C.C. No. 7728 of 2018 on the file of FTC III Metropolitan Magistrate Court, Saidapet, dated 29.05.2024

For Petitioner : Mr. K.Thiruvengadam

For Respondent : Mr. A.S.Balaji

ORDER

This Criminal Revision has been filed challenging the order dated 29.05.2024 made in Crl.M.P.No.6455 of 2024 on the file of FTC III Metropolitan Magistrate Court, Saidapet.



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2. The learned counsel for the petitioner submitted that the respondent had examined himself as P.W.1 and marked documents Ex.P.1 to Ex.P.9. According to the petitioner, in the complaint as well as the proof of affidavit, only six documents were listed and copies were shown. Thereafter, Ex.P.7 to Ex.P.9, the statements of account of the respondent and the diary maintained by one Shanthalakshmi, the respondent's wife, were marked as additional documents after filing the petition. Although the petitioner cross-examined regarding Ex.P.7 to Ex.P.9, in view of the respondent's admission in cross-examination that Shanthalakshmi would be the right person to explain the writing and records made in Ex.P.9, the examination of witness Shanthalakshmi is necessary. However, the trial Court dismissed the petition, reasoning that the respondent had approached this Court in Crl. O.P. No. 7439 of 2023, and this Court had directed the trial Court to complete the proceedings in C.C. No. 7728 of 2018 in a time-bound manner, and the time had already elapsed, primarily for that reason, the petition was dismissed.



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3. The learned counsel for the respondent, on the other hand, strongly opposed the petition, stating that the petitioner had filed it at the fag end of the trial to protract the proceedings. The case is of the year 2018, already has a civil suit pending between the petitioner and Shanthalakshmi in O.S. No. 23 of 2023 on the file of the District Court, Vellore. He further submitted that the petitioner had not mentioned anything in the reply notice about the stand presently taken, and it is only an afterthought to protract the proceedings that this petition has been filed. The bank statement is that of the respondent/complainant, and cross-examination had also been conducted regarding the same. Since the petitioner has already cross-examined the respondent regarding Ex.P7 to Ex.P9, no further clarification or cross-examination is required, either of the Bank Manager or the respondent's wife, Shanthalakshmi. Hence, he strongly opposed the petition.

4. Considering the submissions made and on perusal of the materials, it is seen that Ex.P.7 and Ex.P.8 are the bank statements of the



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account, and the recording of the same has already been cross-examined.

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Examining the bank witness is not going to serve any purpose.

5. In view of the same, the order of the trial Court regarding the dismissal of the summons for the Bank Manager is confirmed. As regards the summoning of the said Shanthalakshmi, in view of the respondent admitting that clarification regarding Ex.P.9 can be given by the said Shanthalakshmi, and it is also admitted that Ex.P.9 is a diary maintained in the handwriting of the said Shanthalakshmi, it would be appropriate that the said Shanthalakshmi can be examined as a witness and questions regarding Ex.P.9 can be asked of her.

6. The learned counsel for the respondent, on instructions, states that C.C. No. 7728 of 2018 is posted for trial on 10.09.2024 before the Trial Court, and the said Shanthalakshmi, wife of the respondent, is ready to appear before the Trial Court, and the learned counsel for the petitioner is



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also ready to conduct the examination.

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7. With the above directions, this Criminal Revision Case is disposed of. Consequently, the connected Miscellaneous Petitions are closed.

09.09.2024

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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Note: Issue order copy on 09.09.2024

To

1. The FTC III Metropolitan Magistrate Court, Saidapet,

2. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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