



Crl.RC.No.1565 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.1565 of 2022

and

Crl.M.P.No.18914 of 2022

T.Yesudasan Sivakumar

... Petitioner

Vs

N.S.Sundaramurthy

... Respondent

Prayer:- Criminal Revision filed under Section 397 read with 401 of Cr.P.C., to set aside the order, dated 09.09.2022, in Crl.M.P.No.42 of 2021 in C.A.No.118 of 2020, on the file of the III Additional District and Sessions Court, Erode at Gobichettipalayam.

For Petitioner : Mr. D. Selvaraju

For Respondent : No appearance



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ORDER

This Criminal Revision is filed against the order, dated 09.09.2022, in Crl.M.P.No.42 of 2021 in C.A.No.118 of 2020, on the file of the III Additional District and Sessions Court, Erode at Gobichettipalayam.

2. The brief facts of the case are that the petitioner is the accused in S.T.C.No.673 of 2015 on the file of the Judicial Magistrate Court No.1, Gobichettipalayam. The said case ended in acquittal against which, the respondent preferred an appeal before the Lower Appellate Court in C.A.No.118 of 2020. When the appeal was pending, the petitioner filed Crl.M.P.No.42 of 2021 under Section 391 of Cr.P.C for recording of additional evidence before the Lower Appellate Court and the same was dismissed, vide order dated 09.09.2022. Challenging the same, the present petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the petitioner is the appellant in C.A.No.118 of 2020 in which the petitioner filed C.M.P.No.41 of 2021 for recording of additional evidence and alleging that the petitioner maintained the bank account in Laxmi Vilas



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Bank, Gobichettipalayam in A/c No. 0278360000000234, which was misused by the respondent/complainant and his father. The complainant was running a TASMAL Bar in the name of his father and he used the petitioner bank account for obtaining Demand Draft for his business and the complainant paid necessary licence of the TASMAL Bar, for which, the District Manager of the TASMAL Bar, Gobichettipalayam has to examine whether the petitioner's bank account was misused by drawing the Demand Draft in the name of Manager, TASMAL Bar, Gobichettipalayam from the petitioner's account maintained in the Laxmi Vilas Bank, Gobichettipalayam. For this purpose, he made a petition. Hence this Court may issue a direction to the Trial Court to issue necessary summons to the Manager, TASMAL Bar, Erode, whether he received any Demand Draft from the petitioner's Bank A/c.No.0278360000000234, Laxmi Vilas Bank, Gobichettipalayam maintained by the petitioner for the purpose of obtaining demand draft for the said business of the complainant to pay the necessary licence fees to the TASMAL.

3. Though notice was sent and the respondent's name is printed in the cause list, no one appeared for the respondent.



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4. Heard the learned counsel appearing for the petitioner.

5. Admittedly, the Trial Court acquitted the petitioner and aggrieved by the same, the petitioner preferred appeal before the Lower Appellate Court and pending appeal before the Lower Appellate Court, the petitioner filed a petition under Section 394 Cr.P.C., for taking additional evidence of the Manager of TASMAC Bar, Erode in order to verify whether the Manager of Erode TASMAC Bar received any Demand Draft from the petitioner's A/c. No.0278360000000234 either by complainant or his father for the purpose of obtaining demand draft for the said business of the complainant to pay the necessary licence fees to the TASMAC.

6. Considering the facts and circumstances of the case, the impugned order, dated 09.09.2022, in Crl.M.P.No.42 of 2021 in C.A.No.118 of 2020, on the file of the III Additional District and Sessions Court, Erode at Gobichettipalayam is set aside. The Trial Court is directed to issue summons to the Manager, TASMAC Bar, Erode to verify whether the



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Manager of Erode TASMAL Bar received any Demand Draft from the petitioner's A/c. No.0278360000000234 either by complainant or his father for the purpose of the business of the complainant to pay the necessary licence fees to the TASMAL.

7. Accordingly, the Civil Revision Petition is allowed. Consequently, the connected miscellaneous petition stands closed.

05.06.2024

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Internet : Yes

Index: Yes/No

Neutral Citation Case : Yes/No



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M.DHANDAPANI, J.,

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