



Crl.R.C(MD).No.366 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

CORAM

DATED 06.06.2024

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.RC(MD). No.366 of 2024

and

Crl.M.P(MD) No.4217 of 2024

P.Murugesan

.. Petitioner/Petitioner/Accused

Vs.

B.Suruliraj

.. Respondent/Respondent/
Complainant

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of Criminal Procedure Code, to set aside the order, dated 23.02.2024 in Cr.M.P.No.10111 of 2023 in S.T.C.No.1274 of 2019 on the file of the learned Judicial Magistrate, Bodinayakkanur, and to allow the application filed under Section 145(2) of Negotiable Instrument Act, 1881.

For Petitioner : Mr.R.Rajaraman

For Respondent : Mr.J.Jeyakumaran



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ORDER

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This Criminal Revision Case has been filed against order passed in Cr.M.P.No.10111 of 2023 in S.T.C.No.1274 of 2019 by the learned Judicial Magistrate, Bodinayakkanur, vide order, dated 23.02.2024.

2. The petitioner is an accused in S.T.C.No.1274 of 2019 on the file of the learned Judicial Magistrate, Bodinayakkanur. The petitioner has filed an application before the Court below under Section 145(2) of Negotiable Instrument Act in Cr.M.P.No.10111 of 2023 in S.T.C.No.1274 of 2019 to examine the Bank Officer, to produce the statement of account of Suruliraj, who is the respondent. However, the same was dismissed by the learned trial Judge, vide order, dated 23.02.2024, stating that the petitioner had the opportunity to produce his statement of account during his examination and he could have proved his case through his statement of account and hence, said petition was filed only to drag on the proceedings. Challenging the same, the present revision has been filed before this Court belatedly at the stage of argument before the Court below.



3. The learned counsel for the petitioner would submit that the specific case of the petitioner is that he borrowed money from Dr.Alagarsamy in the year 2015. He made repayment principal amount along with interest to the account of one Suruliraj as per the direction given by the said Dr.Alagarsamy. To prove his defence, the petitioner wants to examine the Bank Manager, who can produce the statement of the said Suruliraj. Hence, he seeks to allow this petition.

4. The learned counsel for the respondent would submit that even though the petitioner has raised his defence before the Court below, he did not mark any document at that time of calling of defence witness in S.T.C.No.1274 of 2019, which is pending from 2019 onwards. Hence, the learned trial Judge, has correctly dismissed the petition on the ground that the petitioner could have filed his statement of account at the time of defence stage. Hence, he seeks for dismissal of the present revision case.

5. It is the specific case of the petitioner/accused that he borrowed the money from Dr.Alagarsamy and as per his direction only, the petitioner has deposited the principal amount with interest to the account of the said



Suruliraj. To prove the case of defence, the statement of account of the said Suruliraj is a material one. Hence, he wants to examine the Bank Officer, who produced the Bank statement of the said Suruliraj.

6. The submissions made by the learned counsel for the respondent/complainant is that the original case is pending from 2019 onwards. However, the application to examine the Bank Officer was filed only at the stage of argument.

7. Considering the rival submissions made by both sides, perused the impugned order.

8. Under the Negotiable Instruments Act, once the signature is admitted the statutory presumption arises under Section 139 of the said Act. Hence, the accused is duty bound to rebut the same either by examining himself or through marking documents. In this case, the specific case of the petitioner is that he borrowed the amount from one Dr. Alagarsamy and as per his direction, he repaid the same with interest in the account of the respondent. Therefore, he wants to produce the account, namely, statement



of the respondent. In the considerable opinion of this Court, the said document is relevant and material to substantiate his defence. Therefore, this Court is inclined to allow the petitioner to mark the said account statement. But, examination of the said manager is not necessary. Accordingly, this Court is inclined to dispose of this revision in the following directions:

8.1.The Branch Manager, Canara Bank Andipatti and the Branch Manager, Canara Bank Bodinaickanur is hereby directed to furnish the accounts statement of B.Suruliraj on payment of the cost from the petitioner within a period of two weeks from the date of receipt of a copy of this order.

8.2.The petitioner is permitted to mark the account statement of B.Suruliraj, either by filing a memo to that effect or examining himself as a witness within a period of two weeks thereafter.

8.3.The respondent is permitted to address the relevancy of the said bank statement at the time of the argument.



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8.4.The learned trial Judge is hereby directed to complete the trial if the petitioner has not complied with the above direction within a period of four weeks from the date of receipt of a copy of this order.

Consequently, connected Miscellaneous Petition is closed.

06.06.2024

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To

- 1.The learned Judicial Magistrate,
Bodinayakkanur.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN.J.,

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