



Crl.R.C.(MD).No.813 of 2024

'BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 02.09.2024

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.813 of 2024
and
Crl.M.P.(MD)No.8806 of 2024

Karpaga Saravanan ... Petitioner/Petitioner/Accused

Vs.

Subbulakshmi ... Respondent/Respondent/Complainant

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records and set aside the order passed by the District Munsif cum Judicial Magistrate Court, Karambakudi in Cr.M.P.No.1355 of 2024 in S.T.C.No.69 of 2023, dated 12.08.2024.

For Petitioner : Mrs.A.Banumathy



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ORDER

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This Criminal Revision is directed against the order passed in Cr.M.P. (MD)No.1355 of 2024, in S.T.C.No.69 of 2023, dated 12.08.2024, on the file of the District Munsif cum Judicial Magistrate, Karambakkudi, dismissing the petition filed under Section 315(1) Cr.P.C.

2. The respondent/plaintiff has filed a private complaint under Section 200 Cr.P.C., against the petitioner for the offence under Section 138 of the Negotiable Instruments Act and the case is pending in S.T.C.No.69 of 2023, on the file of the District Munsif cum Judicial Magistrate, Karambakudi. It is evident from the records that the respondent/plaintiff's side evidence was over and when the case was pending for defence side evidence, the present petition under Section 315(1) Cr.P.C., came to be filed.

3. The case of the petitioner is that he has examined one Kamalakannan as defence witness and as per the evidence given by the said Kamalakannan, the petitioner has produced certain documents and the petitioner, in order to establish his defence, has to examine the persons shown in the said documents, that the petitioner will be put to loss and hardship, if the petition is not allowed



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and that therefore, the petitioner has to be permitted to examine the witnesses listed in the petition.

4. The respondent/complaint has raised objections stating that the summons were issued and on that basis, Thangam, Subbulakshmi and Kamalakannan were examined as defence witnesses and that though summons were sent to the other witnesses, the same were returned as un-served, that the petitioner has admitted the receipt of the amount, that the above petition for the very same reason of examining the said witnesses is legally not maintainable, that there is no bonafide in filing the petition and the same was filed only to drag on the proceedings and that therefore, the petition is liable to be dismissed.

5. The learned Judicial Magistrate, after enquiry, has passed the impugned order dated 12.08.2024, dismissing the petition filed under Section 315(1) Cr.P.C.

6. The petitioner, in the petition filed under Section 315 Cr.P.C., has listed out the witnesses sought to be examined and in that list, he has shown 9 persons as witnesses. It is not in dispute that the petitioner has already examined



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Thangam, Subbulakshmi and Kamalakannan as defence witnesses. It is also not in dispute that the summons sent to the other witnesses came to be returned as “un-served”. The petitioner, without considering the returning of the summons, has filed the present petition now under Section 315(1) Cr.P.C., seeking permission to examine the listed witnesses.

7. A cursory perusal of the petition filed under Section 315 Cr.P.C., and the witnesses already examined and also the fact that the above case is pending from 2018 onwards would only go to show the intention of the petitioner to drag on the proceedings as long as possible. When the above revision was taken up for hearing today, the learned Counsel for the petitioner would submit that the petitioner may be permitted to examine himself as defence witness and he has decided not to press his relief with regard to the examination of other witnesses.

8. Admittedly, the petitioner has not chosen to examine himself till now. Though the present petition came to be filed under Section 315 Cr.P.C., he has sought for examination of other witnesses, not the petitioner himself. Since the case is pending from 2018 onwards and that too, now in the defence stage,



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directing the petitioner again to approach the concerned Court under Section 315 Cr.P.C., to examine himself would only further delay the disposal of the case.

9. Considering the above, this Court is of the view that the petitioner is to be permitted to examine himself as defence witness within the time frame to be stipulated by this Court.

10. In the result, the trial Court is directed to examine the petitioner as defence witness and complete his examination within 15 days from the date of receipt of a copy of this order and to dispose of the case within one month thereafter.

11. With the above directions, the Criminal Revision Case is disposed of. Consequently, the connected Miscellaneous Petition is closed.

02.09.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No

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To

The District Munsif cum Judicial Magistrate Court,
Karambakudi



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K.MURALI SHANKAR, J.

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