



Crl.R.C.(MD).No.369 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 12.04.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD). No.369 of 2024
and
Crl.M.P.(MD).No.4231 of 2024

Dhanasekaran

... Petitioner

Vs.

Senthilkumar

... Respondent

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the entire records relating to the order passed in Cr.M.P.No. 3765 of 2022 in C.C.No.5 of 2018 dated 06.01.2023 on the file of Judicial Magistrate, Fast Track Court (Magisterial Level), Thoothukudi, by allowing this Criminal Revision Petition and to permit the petitioner to summon and examine the LW3/Vinoth and LW4/Chandrasekaran.

For Petitioner : Mr.S.Ramasamy

For Respondent : Ms.P.Sujai Krishana



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ORDER

The petitioner is the sole accused in C.C.No.5 of 2018, filed this revision challenging the impugned order passed in Cr.M.P.No.3765 of 2022 in C.C.No.5 of 2018 dated 06.01.2023 by the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Thoothukudi, and to permit the petitioner to summon and examine LW3/Vinoth and LW4/Chandrasekaran.

2.The case of the prosecution is that the petitioner borrowed a sum of Rs. 15,00,0000/- from the respondent on 21.10.2016. To repay the same, the petitioner issued three cheques bearing Nos.022164, 019383 and 022163 all dated 22.03.2017 drawn on Indian Overseas Bank, Chidambaranagar Main Road Branch, Tuticorin. While, the complainant presented the said cheque for payment on 23.03.2017, the same were returned with an endorsement “insufficient funds” in the account of the petitioner/accused, for which, the complainant issued legal notice dated 28.03.2017 and the same was received by the petitioner on 29.03.2017. But, the petitioner neither paid any amount nor sent any reply. Hence, the respondent filed a complaint under Section 138 of Negotiable Instruments act, and the same was taken on file in C.C.No.5 of 2018 before the



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learned Judicial Magistrate, Fast Track Court, Thoothukudi. Pending the same, the petitioned filed petition in Cr.M.P.No.3765 of 2022 under Section 254(2) of Cr.P.C., to summon witnesses on the side of defence. The learned trial Judge allowed the petition in respect of L.W.1 and L.W.2 and dismissed the petition relating to L.W.3 and L.W.4. Challenging the same, the present criminal revision petition has been filed.

3.According to the learned counsel appearing for the petitioner/accused there was some dispute between the complainant and the accused and there was a negotiation. To prove the negotiation, he seeks for examining four witnesses.

4.To verify the plea, this Court asked the petitioner to produce the complainant's evidence. This Court perused the deposition of the complainant. Even though he was subjected to detailed cross examination, there was no question relating to the private negotiation. There was no defence on the side of the petitioner relating to the private negotiation. Therefore, the learned trial Judge has correctly declined to accept the prayer of the petitioner to examine L.W.3 and L.W.4 under Section 254(2) of Cr.P.C.



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5.Hence, this Court finds no merit in the contention of the petitioner.

Accordingly, this criminal revision case is dismissed and the impugned order passed in Cr.M.P.No.3765 of 2022 in C.C.No.5 of 2018, by the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Thoothukudi, dated 06.01.2023, is hereby confirmed. Consequently, the connected criminal miscellaneous petition is closed.

12.04.2024

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

vsg/sbn

To

1. The Learned Judicial Magistrate,
Fast Track Court (Magisterial Level),
Thoothukudi.
2. The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

vsg/sbn

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