



CRL RC(MD)No.1273 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.07.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRL RC(MD)No.1273 of 2023

and

CRL MP(MD)No.16226 of 2023

S.Chidambara Sundaram

... Petitioner / Petitioner /
Accused

Vs.

JNB Shipping Agencies,
Through its partner,
S.Salashankar

... Respondent / Respondent /
Complainant

PRAYER: Criminal Revision Petition is filed under Section 438 r/w 442 of BNSS, to call for the records to the order dated 16.10.2023 in CrI.M.P.No.6905 of 2023 in C.C.No.191 of 2022 passed by the learned Judicial Magistrate / Fast Track Court, Tuticorin.

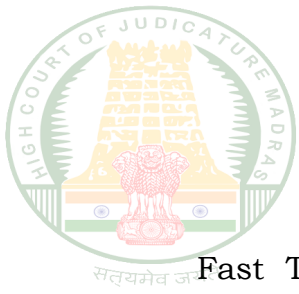
For Petitioner : Mr.S.Thilaga Karthika,

For Mr.M.K.Suresh

For Respondent : Mr.K.Raamakrishnan

ORDER

Challenging the order passed by the learned Judicial Magistrate /

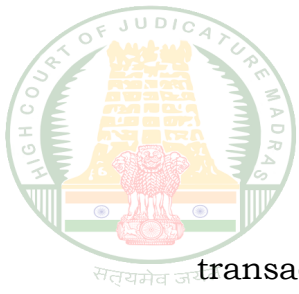


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Fast Track Court, Tuticorin, passed in Crl.M.P.No.6905 of 2023 in C.C.No.191 of 2022, dated 16.10.2023, this Criminal Revision case is filed.

2. The petitioner herein is the respondent in the case before the learned Trial Court. The petitioner filed an application under section 254(2) of the Code of Criminal Procedure, 1973, seeking the permission of the Court to examine four witnesses. However, the learned Trial Court partly allowed the same permitting the petitioner to examine the Manager of South Indian Bank. However, negated the claim of the petitioner with respect to the other three witnesses, who were sought to be examined, for the reason that, the petitioner failed to establish as to how the said witnesses are related to the transactions between the petitioner and the respondent herein. Challenging the same, this criminal revision case is filed.

3. The learned counsel for the petitioner categorically pointed out that, the impugned order has been passed on the premise that the petitioner had failed to establish the relationship between the witnesses who have sought to be examined with respect to the alleged

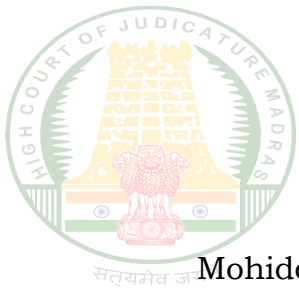


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transactions between the petitioner and the respondent. However, she drew my attention to paragraph No.3 of the reply notice wherein the involvement of one Mr.Ashokan and another Mr.Naveen Kumar has been clearly stated.

4. That apart, she also pointed out that the transactions were also related to the business of M/s.Delta Intralogistics (World wide) Ltd, Tuticorin. Further she submitted that one Mr.Ahammed Mohideen is the Director of M/s.Delta Intralogistics (World wide) Ltd., Tuticorin, Mr.Ashokan is the present Manager of the said firm and Mr.Chidambara Vinayagam is the petitioner's employee and categorically contended that all the witnesses are directly or indirectly connected to the alleged transaction in question and pressed for allowing the Criminal Revision case.

5. Per contra, the learned counsel for the respondent categorically contended that, the particular witness, namely, Mr.Ahammed Mohideen, though he is the Director of M/s.Delta Intralogistics (World wide) Ltd., Tuticorin, he is not living in India and he is a citizen of United Arab Emirates. Requiring the examination of Mr.Ahammed



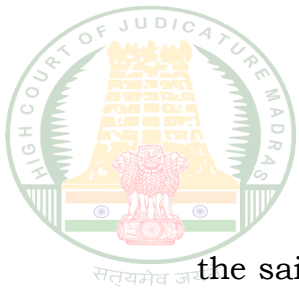
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Mohideen is only to protract the trial proceedings and delay the same.

He also pointed out that, Mr.Chidambara Vinayagam is their own employee who has nothing to do with the transaction concerned and however, he has got no objection as to the examination of Mr.Ashokan who is the present manager of M/s.Delta Intralogistics (World wide) Ltd., Tuticorin. He also relied upon the judgment of this Court in **R.Amsaveni, vs. P.Lakshmi**¹ categorically contended that, unless and until the accused had made a put up specific questions as to the witnesses who are sought to be examined while cross-examination of PW-1, who is the complainant/respondent herein, he has no *locus standi* to file an application under Section 254(2) of Code of Criminal Procedure, 1973. In the absence of any suggestion as to the involvement of the witnesses who are sought to be examined with PW-1 at the time of cross examination, the petitioner cannot seek permission to examine unrelated persons in his defence side of evidence.

6. For which, the learned counsel for the petitioner relied upon the judgment of this Court in the case of **M.Saravanan vs. S.Murugesan in Crl.R.C.No.970 of 2017 dated 04.09.2017**, in which this Court has held that the power of the Magistrate under Section 254(2) of the Code is of wider amplitude and while exercising

¹ 2025(2) MWN (Cr.) DCC 32 (Mad.)

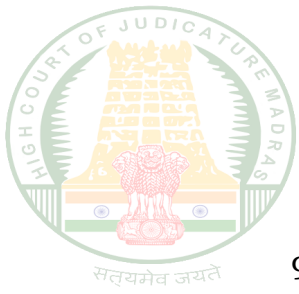


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the said power, either accepting or rejecting the petition for summoning any witnesses, the Magistrate concerned must give reasons as to why, he accepts the petition or rejects the same. Relying upon the said judgment, the learned counsel for the petitioner pointed out that the reasons given by the learned Magistrate for rejecting the plea of the petitioner are incorrect.

7. Heard the learned counsels on either side and carefully perused the materials available on record.

8. It is needless to state that the learned Judicial Magistrate, while rejecting the claim of examining Mr.Ahammed Mohideen, Mr.Ashokan and Mr.Chidambara Vinayakam, has recorded a reason that the petitioner had failed to establish the nature of connection of those witnesses with the alleged transaction. However, the learned counsel for the petitioner drew my attention to the reply notice issued by the accused, that is, the petitioner herein, to the respondent wherein the involvement of Mr.Ashokan, the present Manager of M/s.Delta Intralogistics (World wide) Ltd., Tuticorin, and the earlier Manager one Mr.Naveen has been clearly mentioned.

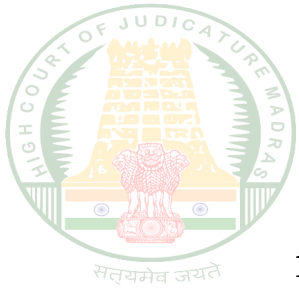


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9. That apart, I am of the considered view that the entire transaction is directly or indirectly connected with the business of M/s.Delta Intralogistics (World wide) Ltd., Tuticorin. The learned counsel for the respondent also submitted that he does not have any objection for examining the present manager, that is, Mr.Ashokan. He also pointed out that Mr.Naveen, who was the erstwhile manager is also a necessary witness. However, the petitioner has not chosen to seek permission of the learned Trial Court to examine him. Observing that Mr.Chidambara Vinayagam is the petitioner's own person, I don't find any demerit in the learned Trial Court's order rejecting the petitioner's claim to examine Mr.Chidambara Vinayagam.

10. However, as far as Mr.Ashokan and Mr.Ahammed Mohideen is concerned, I find it necessary that the learned Trial Court should give permission to the petitioner to examine Mr.Ashokan, the present Manager of M/s.Delta Intralogistics (World wide) Ltd., Tuticorin. It is also found from the cross examination that no precise question / suggestion has been put up by the learned counsel for the petitioner while cross examining PW-1 with respect to Mr.Chidambara Vinayagam and Mr.Ahammed Mohideen.



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11. Accordingly, this Criminal Revision case is partly allowed directing the Trial Court to examine Mr.Ashokan. The learned Judicial Magistrate / Fast Track Court, Tuticorin, is directed to dispose of the matter as expeditiously as possible within a period of three (3) months from the date of receipt of the copy of this order. No costs.

17.07.2025

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

To

The Judicial Magistrate /
Fast Track Court, Tuticorin.



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L.VICTORIA GOWRI, J.,

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